

Remarks

35 U.S.C. §101 rejections

In the papers mailed on October 4, 2010 claims 89 through 114 are “rejected” under 35 USC §101 for allegedly: representing non statutory subject matter, not having a specific utility, being overly broad and for failing the machine or transformation test. The Assignee traverses the claim rejections in a number of ways.

1. First, by noting that the evidence required to support the prima facie case that would sustain the claim rejections has not been provided. For example, MPEP 2164.07 states “the examiner has the initial burden of challenging an asserted utility. Only after the examiner has provided evidence showing that one of ordinary skill in the art would reasonably doubt the asserted utility does the burden shift to the applicant to provide rebuttal evidence sufficient to convince one of ordinary skill in the art of the invention’s asserted utility. In re Brana, 51 F.3d 1560, 1566, 34 USPQ2d 1436, 1441 (Fed. Cir. 1995) (citing In re Bundy, 642 F.2d 430, 433, 209 USPQ 48, 51 (CCPA 1981)). Given the complete absence of evidence to support these assertions, the Assignee submits that the person authoring the papers has failed to establish the required prima facie cause that the rejected claims lack utility. It is also well established that “*an applicant’s assertion of utility creates a presumption of utility that will generally be sufficient to satisfy the utility requirement of 35 U.S.C. 101. See, e.g., In re Jolles, 628 F.2d 1322, 206 USPQ 885 (CCPA 1980); In re Irons, 340 F.2d 974, 144 USPQ 351 (CCPA 1965); In re Langer, 503 F.2d 1380, 183 USPQ 288 (CCPA 1974); In re Sichert, 566 F.2d 1154, 1159, 196 USPQ 209, 212-13 (CCPA 1977)*”. While the claimed invention clearly meets the machine or transformation test it is worth noting that said test is not the definitive test for statutory subject matter (see Bilski v. Kappos (08-964), Supreme Court)
2. Second, by noting that there is no statutory basis for the claim rejections as the claim rejections were authored by an individual and an organization with an apparently well documented lack of average or ordinary skill in the relevant arts and understanding of the law. It is well established that patent examination needs to be completed “*in light of the specification as it would be interpreted by one of ordinary skill in the art.*” (In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364, 70 USPQ2d 1827 Fed. Cir. 2004, *underline added*). The comments regarding the lack of transformation, absence of the need for a computer and overly broad claims add to the existing body of clear and

convincing evidence that the author and organization appear to lack the level of skill in the art required to complete a patent examination.

3. Third, by noting that the claim rejections fail under both standards of the APA and are therefore moot. The Assignee also notes that the rejections under 35 U.S.C. § 101 are contrary to the recently issued guidance from the Acting Associate Commissioner for Patent Examination Policy as the claims are all directed to providing concrete results for a real world entity and they all pass the machine or transformation test.
4. Fourth, by noting that the author failed to take note of the fact that in *Gottschalk v. Benson*, 409 U.S. 63 (1972), the Supreme Court stated that: "Transformation and reduction of an article 'to a different state or thing' is the clue to the patentability of a process claim that does not include particular machines." 409 U.S., at 70.

Furthermore, claim amendments have obviated these claim rejections.

35 U.S.C. §103 rejections

In the papers mailed on October 4, 2010 claims 89 through 114 are "rejected" under 35 U.S.C. §103(a) as being obvious given U.S. Patent 5,812,988 (hereinafter, Sandretto) in view of U.S. Patent 5,361,201 (hereinafter Jost) and U.S. Patent 6,119,102 (hereinafter, Rush). The Assignee traverses the rejections for obviousness in a number of ways.

1. First, by noting that the claim rejections are not in compliance with the Administrative Procedures Act and are therefore moot.
2. Second, by noting that there is no statutory basis for the claim rejections. The claim rejections are non-statutory because there is no statutory basis for giving any consideration to an obviousness rejection authored by individuals or an organization with a level of skill in the art that is not average or better. It is well established that a review for compliance with 35 U.S.C. 103 conditions for patentability requires a determination as to whether or not the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. The selection of references used to support the obviousness rejections adds to the apparently clear and convincing evidence that the author of said papers and the organization appear to lack the level of skill in the art required to complete a patent examination (see Appendix).
3. Third, by noting that the papers mailed October 4, 2010 have failed to establish a prima facie case of obviousness. In particular, the papers mailed October 4, 2010 fail to establish a prima facie case of obviousness for claims 89 - 114 by: citing combinations

of documents that teach away from the claimed invention, citing a combination of documents that fails to teach one or more limitation for every claim, failing to explain the combination as required by *KSR v Teleflex*, teaching a combination that requires a change in principle of operation of the disclosed inventions and teaching a combination that would destroy the ability of one or more of the inventions to function. *MPEP 2143.03 provides that: to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).*

Furthermore, claim amendments have obviated these claim rejections.

35 U.S.C. § 112 First Paragraph Rejections

In the papers mailed October 4, 2010 claims 125 through 150 are rejected under 35 U.S.C. §112 first paragraph as lacking a written description that would enable those of average skill in the art to make and use the claimed invention. Specifically, the author of said papers has made an unsupported statement that the specification requires subjective judgments and lack a clear set of steps that allegedly would make it difficult to implement the invention. The Assignee traverses the §112 first paragraph rejection of claims 125 through 150 in several ways.

1. First, by noting that the assertions regarding the alleged lack of written description are not in compliance with the both standards of the Administrative Procedures Act and are therefore moot.
2. Second, by noting that there is no statutory basis for the claim rejections. The claim rejections are non-statutory because there is no statutory basis for giving any consideration to a written description rejection authored by individuals and/or an organization with a level of skill in the art that is not average or better. The obviousness rejections add to the apparently clear and convincing evidence that the author of said papers and organization appear to lack the level of skill in the art required to complete a patent examination.
3. Third, by noting that the papers mailed October 4, 2010 have failed to establish a prima facie case that the specification does not meet the requirements of §112 first paragraph. In particular, the author of said papers has failed to establish a prima facie case that the specification does not meet the requirements of §112 first paragraph. *MPEP 2163 states that: "A description as filed is presumed to be adequate, unless or until sufficient*

evidence or reasoning to the contrary has been presented by the examiner to rebut the presumption. See, e.g., In re Marzocchi, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). The examiner, therefore, must have a reasonable basis to challenge the adequacy of the written description. The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. Wertheim, 541 F.2d at 263, 191 USPQ at 97. In rejecting a claim, the examiner must set forth express findings of fact regarding the above analysis which support the lack of written description conclusion. The author of the papers mailed October 4, 2010 also failed to note that "there is no requirement that the words in the claim must match those used in the specification disclosure" and that the use of words in a claim that do not match those used in the specification does not comprise the incorporation of new matter (see In re Robert Skvorecz, CAFC 2008-1221).

Furthermore, claim amendments have obviated these claim rejections.

35 U.S.C. § 112 Second Paragraph Rejections

In the papers mailed October 4, 2010 claims 89 through 114 are rejected under 35 U.S.C. §112 second paragraph. The Assignee traverses the §112 second paragraph rejection of claims 89 through 114 in several ways.

1. First, by noting that the assertions regarding the alleged lack of written description are not in compliance with the both standards of the Administrative Procedures Act and are therefore moot.
2. Second, by noting that there is no statutory basis for the claim rejections. The claim rejections are non-statutory because there is no statutory basis for giving any consideration to a written description rejection authored by individuals and/or an organization with an apparent level of skill in the art that is not average or better.
3. Third, by noting that the papers mailed October 4, 2010 have failed to establish a prima facie case that the specification does not meet the requirements of §112 second paragraph. In particular, the Assignee notes that the arguments presented by the author of said papers fail to establish the prima facie case required to sustain a §112 second

paragraph rejection. *MPEP 2173.02 states that: definiteness of claim language must be analyzed, not in a vacuum, but in light of:*

(A) The content of the particular application disclosure;

(B) The teachings of the prior art; and

(C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made. In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent. See, e.g., Solomon v. Kimberly-Clark Corp., 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). See also In re Larsen, No. 01-1092 (Fed. Cir. May 9, 2001). In the case of claims 125 - 150 the author of said papers has failed to establish the prima facie case that the specification does not meet the requirements of §112 second paragraph in at least four ways for every rejected claim. The four ways are:

1. by failing to interpret the claims in light of the specification,
2. by failing to provide any evidence that someone of average skill in the relevant arts would have difficulty interpreting the claims,
3. by failing to establish that the limitation(s) in the claims fail to describe the invention and/or
4. by failing to consider the claim as a whole.

These failures may be due to the fact that those authoring the papers mailed October 4, 2010 do not appear to understand any of the scientific and/or engineering principles applicable to the pertinent art.

Furthermore, claim amendments have obviated these claim rejections.

Statement under 37 CFR 1.111

37 CFR 1.111 requires that the basis for amendments to the claims be pointed out after consideration of the references cited or the objections made. The Assignee notes that this requirement is not relevant to the instant application because, as detailed above, there are no

references or objections to avoid. Having said that, the Assignee notes that amendments to the independent claims obviate the rejections under 101 and 103 as none of the cited references transform data into a predictive model and because the transformation makes it even more clear that the claimed invention passes the machine or transformation test. The amendments to the claims obviate the 112 first and second paragraph rejections by correcting informalities.

Information from co-pending applications

Under the provisions of MPEP § 2001.06(b), the Examiner is hereby advised of information obtained from co-pending U.S. Patent Application(s) which may be "material to patentability" of the instant application (see *Armour & Co. v. Swift & Co.*, 466 F.2d 767, 779, 175 USPQ 70, 79 7th Cir. 1972).

The subject matter contained in the material incorporated herein above may be deemed to relate to the present application, and thus may be felt (with or without reasonable justification) to be material to the prosecution of the instant application.

☐ Copies of cited U.S. patent application(s) (office actions, specification, claims, and the drawings) or copies of the portion(s) of the application(s) which caused it(them) to be cited, including any claims directed to such portion(s) are attached hereto.

☒ Copies of the cited U.S. Patent Application(s) (office actions, specification, claims, and the drawings) and U.S. Patents are available on the U.S.P.T.O.'s Image File Wrapper. Therefore copies thereof need not be attached.

☐ The materials in the envelope are considered trade secrets and are being submitted for consideration under MPEP § 724.

Any and all of the listed co-pending applications are not to be construed as prior art. By bringing the above-listed information to the attention of the Examiner, the Assignee does NOT waive any confidentiality concerning the above-listed co-pending application(s) or this application. See MPEP §101. Furthermore, if said application(s) should not mature into patents, such application(s) should be preserved in secrecy under the provisions of 35 U.S.C. § 122 and 37 C.F.R. § 1.14.

I hereby certify that this correspondence is being filed via
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on January 4, 2011

PATENT
Attorney Docket No.: 028275-000000US

TOWNSEND and TOWNSEND and CREW LLP

By: [Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Jeff S. Eder

Application No.: 11/360,087

Filed: February 23, 2006

For: Enterprise risk management system

Customer No.: 20350

Confirmation No. 8881

Examiner: Ella Colbert

Technology Center/Art Unit: 3694

PETITION FOR RELIEF

Commissioner for Patents
Attention: Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

In accordance with the provisions of 37 CFR 1.182, Asset Reliance, Inc., the Assignee of a number of patents and patent applications (collectively referred to on the Asset Reliance patent applications), requests relief from the U.S.P.T.O.'s apparent failure to provide an organization with the training and level of skill in the relevant arts required to consistently examine patent applications in accordance with the prevailing statutes and precedents. The requested relief includes:

- a) Granting a notice of allowance for the instant application and each of the 24 other Asset Reliance patent applications listed in Attachments A and D that have been improperly rejected;

- b) Initiating reexamination proceedings against the fifty plus patents listed in Attachments B and D for which there is now a substantial new question of patentability; and
- c) Suspending U.S.P.T.O. activities related to all Asset Reliance applications until the review of the instant petition is completed. This requested relief is proper as the paperwork completed for all pending applications does not appear to meet the statutory requirements for an "examination" so no responses should be due.

The inventions for value and risk analysis, management and optimization disclosed in the Asset Reliance patent applications discussed herein overcome many of the shortcomings of traditional financial management systems that contributed to the global market meltdown (see "Risk Mismanagement", N.Y. Times, January 4, 2009). Consequently, a case could be made that the American taxpayer has already spent over a trillion dollars to overcome the problems caused by the delays in bringing the inventions disclosed in these applications to market that has been caused by the problems discussed herein.

Background

It is well established that patent application examination needs to be completed from the perspective of an individual with average or ordinary skill in the art. For example, claim interpretation which is the starting point for any patent examination should be performed "in light of the specification as it would be interpreted by one of ordinary skill in the art." (*In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364, 70 USPQ2d 1827 Fed. Cir. 2004). A review for compliance with 35 U.S.C. § 103 conditions for patentability requires a determination as to whether or not the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. As is well known, anticipation is the 'epitome of obviousness' (*In re Kalm*, 378 F.2d 959, 962 CCPA 1967). It is also well known that a review for compliance with 35 U.S.C. § 112 conditions for

patentability requires a determination as to whether or not the specification contains "a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same."

The person of ordinary skill in the art is a hypothetical person who is presumed to have known the relevant art at the time of the invention. (*In re GPAC*, 57 F.3d 1573, 1579, 35 USPQ2d 1116, 1121 (Fed. Cir. 1995); *Custom Accessories, Inc. v. Jeffrey-Allan Industries, Inc.*, 807 F.2d 955, 962, 1 USPQ2d 1196, 1201 (Fed. Cir. 1986); *Environmental Designs, Ltd. V. Union Oil Co.*, 713 F.2d 693, 696, 218 USPQ 865, 868 (Fed. Cir. 1983). It is also well established that the "hypothetical 'person having ordinary skill in the art.'...would, of necessity have the capability of understanding the scientific and engineering principles applicable to the pertinent art" *Ex parte Hiyamizu*, 10 USPQ2d 1393, 1394 (Bd. Pat. App. & Inter. 1988).

Evidence that the U.S.P.T.O. does not appear to consistently utilize an average or ordinary level of skill in the relevant arts during patent application examination includes:

- a) The allowance and issuance of a large number of patents to various other companies for which there is a substantial new question of patentability in view of relevant prior art that was well known to those of average skill in the art at the time of invention is properly considered *see* Attachment B, Section A, number 1 through number 23 and Attachment D, number 6;
- b) The routine reliance on prior art that are not relevant to pending claims in Asset Reliance applications under the broadest reasonable interpretation of the claims as the basis for rejections for anticipation and/or obviousness. In every case, the prior art cited in the Asset Reliance rejections is the prior art that raises new questions of patentability about patents issued to various other companies (and invalid) *see* Attachment A, Section A, number 1 through number 19 and Attachment B, Section A, number 1 through number 22;
- c) The allowance and issue of a number of patents that do not appear to meet the written description requirement for patentability provides evidence of a lack of understanding of the scientific and engineering principles applicable to the pertinent art *see* Attachment B, Section B, number 1 through number 6'

- d) The rejection of Asset Reliance patent applications for alleged deficiencies in written description that all appear to be based (at least in part) on a lack of understanding of the scientific and engineering principles applicable to the pertinent art by those authoring the rejections. In many cases, various other companies have been issued patents for using the same, less effective or very similar methods *see* Attachment A, Section B, number 1 through number 5; and
- e) Patent applications for inventions that are based on similar technology are routinely assigned to different statutory classes *see* Attachment A, Section C.

The apparent lack of skill in the relevant arts of the U.S.P.T.O. Examiners and supervisory staff detailed in Attachment A and Attachment B appears to provide clear and convincing evidence that U.S.P.T.O. personnel are not consistently examining patent applications for the arts relevant to Asset Reliance applications. It is also worth noting that these apparent shortcomings provide several benefits to the large, well known companies that are the recipients of most of the patents having substantial new questions of patentability that were issued by said personnel.

Evidence that the U.S.P.T.O. does not appear to follow the relevant statutes and precedents during the examination of patent applications includes:

- a) Asset Reliance patent application "examinations" are routinely completed without giving consideration to material incorporated by reference in accordance with 37 CFR 1.57 *see* Attachment D, number 2;
- b) Asset Reliance patent applications are routinely rejected for alleged written description deficiencies on the basis of conclusory statements in place of the required preponderance of evidence by Examiners with an apparently well documented lack of average or ordinary skill in the relevant arts *see* Attachment A, Section B, number 1 through number 5;
- c) Asset Reliance patent applications are routinely rejected on the basis of conclusory statements and irrelevant prior art in place of the required substantial evidence (*see* APA) *see* Attachment A, Section A, number 1 through number 19;
- d) Examinations of patent applications filed by large well known companies routinely fail to consider well known prior art and relevant Asset Reliance patent applications that have been published *see* Attachment B, Section A, number 1 through number 22; and Attachment D,

number 6;

e) Asset Reliance patent applications have been rejected for non-statutory subject matter while patents for inventions with similar functionality have been issued to various other companies *see* Attachment D, number 3;

f) Restriction requirements for Asset Reliance patent applications are imposed unilaterally at the time of final rejection in apparent violation of 37 CFR 1.142 *see* Attachment D, number 7;

g) Patent application examinations are supposed to be completed in an unbiased fashion, however, approximately 25% of the Asset Reliance portfolio is assigned to an Examiner who has never issued a patent *see* Attachment C for details; and

h) Examiners from TC 3600 have twice gone back and rescinded prior, months old Office Actions in an attempt to force ARI to re-open prosecution (in one case with the help of the BPAI) when it was clear that there was no way to win the appeal that ARI had filed *see* Attachment D, number 8].

Attachment D provides a number of specific examples of examination issues associated with the Asset Reliance patent application. As detailed in Attachment D, the apparent violation of the relevant statutes has also shielded the patents for which there is a substantial new question of patentability from legal challenge. In fact, the U.S.P.T.O. procedures as implemented in this space have provided and protected patents to large, well known companies for inventions that are not novel in place of the constitutional mandate to promote the progress of science and useful arts by securing to inventors the exclusive right to their discoveries for a limited time.

Because the Asset Reliance patent applications discussed herein do not appear to have received a statutory patent examination, there appears to be no statutory basis for forwarding them to the Board of Patent Appeals and Interferences (BPAI). As detailed in attachment E, the BPAI also appears to suffer from the same shortcomings outlined above and as a result it is not in a position to resolve the issues disclosed herein. Furthermore, it would be inequitable and unreasonable to force Asset Reliance to appeal patent applications for novel

inventions while the U.S.P.T.O. continuously issues patents to large, well known companies for inventions that do not appear to be novel.

As the statutory requirements for patentability are apparently not being followed, Asset Reliance is unclear as to the criteria actually being used to determine patentability. However, it is clear that the problems outlined above produce arbitrary and capricious results, for example:

Multi-criteria financial optimization was rejected as being non-statutory subject matter in an Asset Reliance application with a filing date in 2000 while it was allowed by the same Examiner in an application with a filing date in 2002 *see* Attachment D, number 3.

Claims for identifying an optimal risk mitigation program were allowed in a patent application filed by a large, well known company in November 2009 while claims for identifying an optimal risk transfer program in two Asset Reliance patent applications were rejected for being nonstatutory subject matter before and after the allowance of the large company patent application. Risk transfer is a subset of risk mitigation *see* Attachment D, number 3.

The development of optimal promotional offers is currently rejected as being obvious in an Asset Reliance application with priority to 2000 while it was allowed in an application filed by a large, well known company with a filing date in 2004 *see* Attachment D, number 10a.

The development and use of a context model is currently rejected as being obvious in two Asset Reliance applications with a priority to 2002 while it was allowed in an application filed by a large, well known company with a filing date in 2005 *see* Attachment D, number 10b.

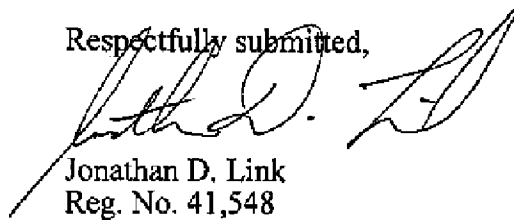
These arbitrary and capricious results and the related waste of time and resources will only continue until the U.S.P.T.O. recommits to its constitutionally mandated mission and provides one or more Examiners with the requisite level of training in the relevant arts and the law to review all new applications filed by Asset Reliance and various other companies.

Applicant: Jeff S. Eder
Application No.: 11/360,087
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PATENT

A fee of \$130 is believed to be due for this submission. Please charge this and any other required fees to Deposit Account No. 20-1430.

Respectfully submitted,



Jonathan D. Link
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Date: January 7, 2011

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J6L/jly
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Attachment A

Section A. Specific examples of improper reliance on apparently irrelevant prior art¹ to support the rejection of an Asset Reliance application, include:

1) "Experiences of Developing and Deploying a Context-Aware Tourist Guide: The GUIDE Project, MOBICOM 2000, Boston, MA, pg. 20-31" (hereinafter Cheverst or GUIDE) is well known to those of average skill in the art. Among other things, Cheverst teaches the use of a fixed set of responses to expected situations to guide the tourists in a city and the development of a map of the best route for touring the city (see Cheverst, Figure 4).

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Cheverst was used as the primary reference to support the rejection of an Asset Reliance application (11/262,146) that relies on a context model to prioritize user actions. The use of a fixed set of responses teaches away from the reliance on a context model disclosed in application 11/262,146. A table containing a representative claim and the well known prior art (Cheverst) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 11/262,146 and GUIDE | |
|--|---|
| A method of prioritizing actions for a user that physically exists, comprising: | GUIDE teaches a computer implemented method for using a fixed set of responses to help visitors identify the best route for touring a city. |
| collecting and preparing data and documents from a plurality of data sources, including user related data, external data and Web data for processing, | GUIDE teaches the collection and preparation of data that is used to develop an information model and identify the time of day, the user's location and the weather (see GUIDE, pages 25 and 26). |
| using a computer to develop a context model for a user that identifies a relative importance of one or more elements and one or more external factors to the user by analyzing the data and documents, | Not Disclosed |
| analyzing the user's context model as required to identify one or more actions that will optimize a single non-financial performance measure for the user, and | Not Disclosed |
| presenting a list of the one or more actions to the user via an electronic display where said display comprises a graphical display, a textual display or a combination thereof. | Not Disclosed |

GUIDE does not map to most of the claimed invention because it does not develop a context model and teaches away from the claimed invention. In particular, GUIDE teaches the development and use of a fixed set of responses that rely on an information model that is independent of a user's context (see GUIDE Information Model discussion, pages 25 and 26). As shown in FIG. 6 of GUIDE, the information model establishes relationships between points of interest and web pages in the city where GUIDE supports tourist visits. User

¹ For the convenience of the Examiner, copies of the non-patent prior art are attached to this Petition.

location, preferences, the time of day and the weather determine which set of fixed (aka pre-programmed) responses are displayed to the user (see GUIDE beginning of Section 4.2, page 25). In the GUIDE system the same set of user location, preferences, time of day and weather will always produce the same displays to every user. By way of a contrast, displays driven by the context models of the claimed invention would generally be different for different users, even if the user location, preferences, time of day and weather were the same.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 11/262,146. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

2) "SEmantic portAL - The SEAL approach, March 27, 2001, pg. 1-27" (hereinafter SEAL) is well known to those of average skill in the art. Among other things, SEAL teaches the use of semantic similarity measure to support information retrieval.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that SEAL was used as a reference to support the rejection an Asset Reliance application (11/262,146) that relies on a context model to prioritize user actions. The use of the semantic similarity measure disclosed by SEAL teaches away from the context modeling method of application 11/262,146. A table containing a representative claim and the well known prior art (SEAL) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 11/262,146 and SEAL | |
|--|--|
| A method of prioritizing actions for a user that physically exists, comprising: | |
| collecting and preparing data and documents from a plurality of data sources, including user related data, external data and Web data for processing, | SEAL presents mechanisms for delivering and collecting machine-understandable data (page 2, paragraph 3) |
| using a computer to develop a context model for a user that identifies a relative importance of one or more elements and one or more external factors to the user by analyzing the data and documents, | Not Disclosed |
| analyzing the user's context model as required to identify one or more actions that will optimize a single non-financial performance measure for the user, and | Not Disclosed |
| presenting a list of the one or more actions to the user via an electronic display where said display comprises a graphical display, a textual display or a combination thereof. | Not Disclosed |

SEAL does not map to most of the claimed invention because it does not develop a context model of any type and teaches away from the claimed invention. In particular, SEAL teaches the development and use of an ontology (see SEAL section 2 that starts on page 2, Figure 2, Figure 3 and Table 1), meaning triangles (see SEAL, Figure 1, page 3) and semantic similarity measures (see SEAL, bottom of page 10) that are independent of a user's context. The word context in SEAL generally refers to the placement of a word in a sentence or

document (see SEAL, bottom of page 23) in place of the broader use of the word implicit in the application and claim.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 11/262,146. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

3) "Improving Level of Service for Mobile Users Using Context Awareness", Proceedings of the 18th IEEE Symposium on Reliable Distribution Systems, Lausanne, Switzerland, Oct. 19-22, 1999 (hereinafter Couderc) is well known to those of average skill in the art. Couderc teaches using a layered software application to pass location information, bandwidth information and weather information directly to a browser in a mobile phone. As is well known in the art, browsers are the user interface for many applications.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Couderc was used as the primary reference to support the rejection of an Asset Reliance application (10/237,021) that develops and uses a context model to identify relevant data and a context frame to provide an interface that passes the relevant data to other applications. Directly passing data to applications such as browsers teaches away from the reliance on a context model to select the data that will be passed on to other applications and the reliance on a context frame to serve as the interface that passes selected data to other applications as claimed in application 10/237,021. A table containing a representative claim and the well known prior art (Couderc) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 10/237,021 and Couderc | |
|--|---|
| A system for implementing an architecture for context aware computing, comprising: a computer with a processor having circuitry to execute instructions; a storage device available to said processor with sequences of instructions stored therein, which when executed cause the processor to: | Couderc teaches a system for providing context objects to context aware applications. |
| provide a data access layer operable to exchange data with a plurality of systems and to present the data to a context modeling layer through a uniform interface; | Not Disclosed |
| provide a context modeling layer operable to develop a context model for an entity from the data obtained from the data access layer and to present the context model to a frame layer through a uniform interface; | Not Disclosed |
| provide a frame layer that obtains a perspective from a user interface and develops a context frame which provides a context model for the perspective to an application in a uniform format, | Not Disclosed |
| where the context frame comprises a model of a contribution of two or more mission measures to a mission performance, a model of a relationship between one or more elements, one or more factors and each of | Not Disclosed |

| | |
|---|--|
| the two or more mission measures and one or more context layers | |
|---|--|

Couderc does not map to most of the claimed invention because it teaches away by teaching a different architecture. The Couderc invention is comprised of 3 layers (not four, see Couderc Figure 3), a detection/notification layer which identifies changes in the data being tracked (location, bandwidth, etc.), this layer communicates with an adaptive layer which takes the information regarding changes and puts it into a context object which is then forwarded to one or more applications in the application layer (see Couderc, Figure 3). In the Couderc invention there is no model of a user's context and there is no context frame.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 10/237,021. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

4) "Modeling for the future" (hereinafter, Winterton) is well known to those of average skill in the art. Winterton describes a number of changes that can be made to the Value at Risk methodology to improve its utility. The changes include: recognizing a leptokurtotic distribution of risk, changing time scales and recognizing specific variables that have an impact on financial performance.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Winterton was cited as a reference pertinent to the instant Asset Reliance application (11/360,087) with claims for using simulation of detailed, segment of value models to measure and manage risk by element of value (customer, employee, patent, etc.) without using Value at Risk techniques and/or considering a leptokurtotic distribution of risk. A table containing a representative claim and the well known prior art (Winterton) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 11/360,087 and Winterton | |
|---|--|
| 1. A system comprising a computer with a processor having circuitry to execute instructions; a storage device available to said processor with sequences of instructions stored therein, which when executed cause the processor to complete a plurality of steps, comprising:: | |
| aggregating data from a plurality of management systems and external data sources representative of a commercial enterprise with one or more segments of value, one or more elements of value and one or more external factors, | Not Disclosed |
| developing two or more scenarios for an enterprise performance and one or more segment of value models that quantify an impact of the elements of value and external factors on a value of each of one or more segments of value by analyzing said data, | Winterton teaches the use of hundreds of thousands of scenarios. |
| simulating an enterprise value with said segment of value models under the | Not Disclosed |

| | |
|--|---------------|
| scenarios as required to measure and output said value and a plurality of risks by element of value and external factor for each segment of value for each scenario, and | |
| optionally completing one or more tasks related to the management of said measured risks and enterprise value where the tasks are selected from the group consisting of identifying an optimal set of risk transfer transactions, identifying an optimal mode for operating one or more risk management control programs, completing an optimal set of risk transfer transactions, reporting said values, calculating and reporting a total return to shareholders, and reporting said risks | Not Disclosed |
| where the plurality of risks comprise event risks and risks selected from the group consisting of contingent liabilities, variability risks, volatility and combinations thereof, | Not Disclosed |
| and where the one or more elements of value physically exist and are selected from the group consisting of channels, customers, employees, equipment, intellectual property, investors, processes, production equipment, supply chains, vendors, and combinations thereof | Not Disclosed |

Winterton does not map to most of the claimed invention because it teaches away by teaching the Value at Risk methodology (see Winterton, page 2, paragraph 5). As is well known in the art, Value at Risk analyzes risk at an aggregated portfolio level instead of analyzing risk by segment of value and/or element of value as claimed. Winterton also teaches away by teaching the use of a leptokurtic distribution for risks (see Winterton, page 2, paragraph 5). By way of contrast, the claimed invention creates scenarios based on an analysis of the risk experience of the enterprise being analyzed.

End result: Well known prior art is apparently being improperly applied to support the rejection of Asset Reliance patent application 11/360,087. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

5) U.S. Patent 5,819,237 (hereinafter, Garman) is well known to those of average skill in the art. It appears to be the first U.S. patent that has claims containing the term "value at risk" and it describes the development and use of the well known Value at Risk metric.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Garman was used as the primary reference to reject the instant Asset Reliance application (11/360,087) with claims for using simulation of detailed, segment of value models to measure and manage risk by element of value (customer, employee, patent, etc.) without using value at risk techniques and/or considering a leptokurtotic distribution of risk. A table containing a representative claim and the well known prior art (Garman) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 11/360,087 and 5,819,237 | |
|---|---------------|
| A computer readable medium having sequences of instructions stored therein, which when executed cause the processor in a computer to perform steps, comprising: | |
| aggregating numerical and text data from a plurality of management systems and external data sources representative of a commercial enterprise with one or more segments of value, one or more elements of value and one or more external factors, | Not Disclosed |
| developing one or more segment of value models that quantify an impact of the elements of value and external factors on a value of each of one or more segments of value and two or more scenarios for an enterprise performance by analyzing said data, | Not Disclosed |
| quantifying a plurality of risks that have a tangible impact on the value of said enterprise by a segment of value, element of value and external factor by using said one or more models to simulate a future enterprise value under the scenarios, and outputting said quantified risks | Not Disclosed |
| where the segments of value are selected from the group consisting of current operation, real option, derivative, investment and market sentiment and combinations thereof and the segment of value models are linear or non-linear. | Not Disclosed |

Garman does not map to the claimed invention because it teaches away by teaching the Value at Risk methodology (hereinafter, VaR). As is well known in the art, VaR analyzes risk at a portfolio level and conflates the different segments of value instead of analyzing risk by using a separate model for each segment of value as claimed (see Garman, C1, L11). Garman also teaches away by teaching the evaluation of risk at the portfolio and trade level instead of analyzing risk by element of value as claimed (see Garman C3, L60 – C4, L4). Garman also teaches the analysis of a portfolio of tradable securities which is not a commercial enterprise (see Garman, C4, L5 – 10).

End result: Well known prior art is being used to support the apparently improper rejection of an Asset Reliance patent application 11/360,087. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

6) U.S. Patent 6,088,678 (hereinafter, Shannon) is well known to those of average skill in the art. Shannon describes a computer-implemented process simulation tool that relies on a software engine that uses historical data to calculate the resources (time and money) required to complete a project and the risks associated with completing said project.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Shannon was used as the only reference to reject most of the claims in an Asset Reliance

application (10/012,375) with claims for using the simulated impact of a project's output on an organization sponsoring the project to optimize the selection of project features. Shannon does not teach anything about the simulated impact of a project's output on an organization or the optimization of project feature impact on the financial performance of the project sponsor. A table containing a representative claim and the well known prior art (Shannon) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 10/012,375 and 6,088,678 | |
|---|--|
| 36. A project optimization method, comprising: | |
| using a computer to perform the steps of: preparing data related to a commercial organization that is sponsoring a project for use in processing, | Shannon teaches preparing data for use in completing a simulation. The simulation appears to be primarily related to the organization producing the project but that could be the same organization that is sponsoring the project (see Shannon, abstract) |
| creating one or more models that quantify an impact of one or more project outputs on a value and a risk for each of one or more organization segments of value by analyzing the data; | Not Disclosed |
| obtaining a project specification that comprises a plurality of project feature data and one or more expected project outputs, | Shannon teaches obtaining a sample design that specifies options for completing the project being simulated (see Shannon, col. 2, line 5) |
| optionally identifying an impact of each project feature on the one or more expected project outputs; | Not Disclosed |
| mapping the expected project outputs to the one or more models; | Not Disclosed |
| creating a financial simulation model using said mappings and data; | Not Disclosed |
| determining an optimal mix of project features using said model, and | Not Disclosed |
| displaying the optimal mix using a paper document or an electronic display that optionally displays the optimal mix in an organization matrix of value and an organization matrix of risk format. | Not Disclosed |

Shannon does not map to most of the claimed invention because: Shannon does not teach or suggest creating one or more models that quantify an impact of one or more project outputs on a value or risk of any of the organization segments of value for the project sponsor. In fact, Shannon teaches away by teaching a model that simulates how materials are consumed during the process of completing a project (see Shannon, C1 L10 - 25). Shannon also does not teach or suggest: mapping project outputs to anything, creating a financial simulation model using mappings and/or segment of value models. Shannon also does not teach or suggest determining an optimal mix of project features.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 10/012,375. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

7) Managing Credit Risk (hereinafter, Caouette) is well known to those of average skill in the art. Caouette, which was published in 1998 notes that *"When a loan was made in the past, the associated credit risk remained on the lender's balance sheet until the debt was repaid or written off. Today, the loan and the risk are just as likely to be resold and/or reconfigured for incorporation into a structured financing that serves as an intermediary between the saving and borrowing sectors."* The use of curves to analyze prices has also been well known to those of average skill in the art for over one hundred years. Evidence of an apparent lack of average skill in the relevant arts can be found by noting that application 09/894,851 was issued as U.S. Patent 7,333,950 (hereinafter, Shidler) without considering Caouette or the well known history of price curves (see Attachment B, Section A, number 7 for more detail) and that it was used as the only reference in a rejection of Asset Reliance application 11/142,785. Application 11/142,785 has claims for measuring a plurality of risks for multiple segments of value and then using hybrid securities and/or securitized risk transfer agreements to develop a customized risk transfer program for the organization. Shidler does not expressly or inherently describe: the measurement of a plurality of organization risks, the measurement of risks by segment of value and/or the development of a customized risk transfer program with or without hybrid securities to transfer risk. A table containing a representative claim and the well known prior art (Shidler) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 11/142,785 and Shidler | |
|--|---------------|
| A computer implemented risk method, comprising: | |
| preparing data representative of an organization that physically exists from a plurality of management systems for use in processing, | Not Disclosed |
| quantifying a plurality of risks for the organization as a whole and for one or more segments of value for the organization where the segments of value are derivatives, market sentiment, and real options using at least a portion of said data, and | Not Disclosed |
| using at least one of the quantified risks to develop and output a customized risk transfer program for the organization | Not Disclosed |
| where the customized risk transfer program comprises one or more securitized risk contracts, one or more hybrid securities or a combination thereof. | Not Disclosed |

Shidler does not map to the claimed invention because: Shidler does not teach or suggest anything about quantifying a plurality of risks for an organization and for one or more segments of value – Shidler only discusses one type of risk, credit risk (see Shidler, abstract, FIG.1). Shidler does not teach or suggest anything about developing a customized risk transfer program for an organization. Shidler does state without explaining that credit default swap buyers can change their swaps into a variety of different credit risk products (see

Shidler, C8, L 9 through C 11, L27) associated with debt obligations. However, the pending claims in the instant application have nothing to do with creating synthetic credit products and/or transferring risks related to debt obligations. Finally, as discussed elsewhere in more detail, the Shidler specification does not appear to explain how to implement the allowed claims (see Attachment B, section B, number 6).

End result: Well known prior art is being used to support the apparently improper rejection of an Asset Reliance patent application 11/142,785. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

8) U.S. Patent 6,301,584 (hereinafter, Ranger) is well known to those of average skill in the art. Ranger describes an invention that integrates data from disparate sources, configures it in accordance with a model and presents views of the data using HTML, XML or VRML. U.S. Patent 6,332,163 (hereinafter, Bowman Amuah) is similarly well known to those of average skill in the art. Among other things, Bowman Amuah teaches the retrieval, manipulation and display of data in accordance with a variety of formats including XML, SGML and SMIL. Evidence of an apparent lack of average skill in the relevant arts can be found by noting that application 09/573,419 was issued as U.S. Patent 7,249,328 (hereinafter, Davis) without considering Ranger or Bowman Amuah (see Attachment B, Section A, number 8 for more detail) and that Davis, which is now well known in the art, was used as the primary reference to reject Asset Reliance application 09/940,450 with claims for transforming data from disparate sources into an integrated database. Ranger and Bowman Amuah had previously been used as the basis for the rejection of the claims in application 09/940,450 by the U.S.P.T.O. The dynamic combination of original source database data and document format information in a viewer relied on by Davis teaches away from development of an integrated database. A table containing a representative claim and the well known prior art (Davis) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for 09/940,450 and Davis | |
|--|---------------|
| A program storage device readable by a computer, tangibly embodying a non-transitory program of instructions executable by at least one processor in the computer to perform steps in data management, comprising: | Not Disclosed |
| use a plurality of metadata mappings to integrate a plurality of data representative of a physical object or substance from a plurality of systems in accordance with an xml metadata standard and a common schema to transform said data into an integrated database that stores data in accordance with said metadata standard and schema and output said database | Not Disclosed |
| where the output of the database comprises making said database available for use, and | Not Disclosed |
| where the metadata mappings are stored in a metadata mapping table. | Not Disclosed |

Davis does not map to the claimed invention because it teaches away from all the claimed methods. Davis teaches away from the use of metadata mappings to create an integrated

database by teaching that data should be mapped to documents (see Davis, C15, L24). Davis teaches away from the storage of data in accordance with a common schema by teaching that a mapping dictionary should be used to reconcile different names from different data sources (see Davis, C33, L44) instead of converting the names to a single common name in accordance with a common schema. Davis also teaches away from creation of an integrated database by teaching that data should be left in its original location (see Davis, FIG. 2, FIG. 3 and C14, L45) and integrated on an as needed basis by a data-viewer (see Davis, FIG. 2, FIG. 3, C9, L11 - 30) in accordance with the information stored in the RDML image database (see Davis, C15, L29 - 34) and the RDML documents created using the data mapped from the different databases.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 09/940,450. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

9) U.S. Patent 6,411,936 (hereinafter, Sanders) is well known to those of average skill in the art. Sanders describes an invention that uses planning loop structures to identify value enhancements for an enterprise. In particular, Sanders describes identifying value enhancements for customers that meet certain criteria (see claims 19, 23 and 25).

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Sanders was used as the primary reference to reject Asset Reliance application 11/167,685 with claims for transforming data from disparate sources into a detailed model of organization financial performance, identifying baskets of stock keeping units (skus) typically purchased from said organization and then using the model to identify prices for the baskets that optimize two or more financial measures. A table containing a representative claim and the well known prior art (Sanders) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for 11/167,685 and Sanders | |
|---|---|
| A computer readable medium having sequences of instructions tangibly stored therein, which when executed cause a processor in at least one computer to perform a process method, comprising: | |
| preparing data from a plurality of business systems associated with an enterprise for use in processing where said data includes a plurality of data on sales history by an sku, | Sanders teaches the use of a switchboard to import data from various databases and the field (See Sanders, abstract and C7, L12 - 23) |
| training one or more models that use said data to identify a set of data from the plurality of data that can be used to analyze each of one or more elements of value, sub-elements of value and external factors that have an impact on a value of the enterprise, | Not Disclosed |
| analyzing the identified sets of data with one or more models to develop a vector for each element of value, sub-element of value and external factor, | Not Disclosed |
| creating an enterprise model that quantifies a net impact of each of one or more elements of value, sub-elements of value | Not Disclosed |

| | |
|---|---------------|
| and external factors on a value of a business by a category of value by using said element of value, sub-element of value and external factor vectors, | |
| analyzing the sales history data to identify one or more baskets of sku's typically purchased from the enterprise and one or more associated causal sku's for each basket for each of one or more sub-elements of customer value, | Not Disclosed |
| completing an optimization analysis of the enterprise model and said baskets to identify and output a promotional offer for each basket-sub element of customer value combination that optimizes a financial measure, | Not Disclosed |
| and optionally presenting an optimized promotional offer for said sub-element of customer value to a potential customer using an interactive sales process | Not Disclosed |
| where the financial measure comprises a current operation value and a financial measure selected from the group consisting of real option value, market sentiment value and combinations thereof. | Not Disclosed |

Sanders does not map to the claimed invention because it teaches away by teaching: a single enterprise model in place of the claimed models for each category of value (see Sanders, FIG. 7), a focus on metrics and profit in place of the claimed focus on value (see Sanders, FIG. 7 and C7, L28 – 29), a focus on a single element of value, customers, in place of the claimed focus on a plurality of elements of value and external factors (see Sanders abstract, FIG. 7, C7, L11 - 40), a reliance on field feedback in planning loop systems in place of the claimed reliance on predictive models and optimization (see Sanders abstract, C7, L 41 - C8, L18), a focus on providing solutions to specific target customer accounts in place of the claimed identification of optimal offers by customer class (see Sanders, claim 19 and claim 25) and that knowledge creation is the key to value creation in place of the claimed elements of value (see Sanders, C2, L40 - 56). Sanders also does not teach or suggest:

- a) training one or more models that use a plurality of data to identify a set of data from the data that can be used to analyze each of one or more elements of value, sub-elements of value and external factors that have an impact on a value of the enterprise,
- b) analyzing the identified sets of data with one or more models to develop a vector for each element of value, sub-element of value and external factor,
- c) creating an enterprise model that quantifies a net impact of each of one or more elements of value, sub-elements of value and external factors on a value of a business by a category of value by using said element of value, sub-element of value and external factor vectors,
- d) analyzing the sales history data to identify one or more baskets of sku's typically purchased from the enterprise and one or more associated causal sku's for each basket for each of one or more sub-elements of customer value, and/or

- e) completing an optimization analysis of the enterprise model and said baskets to identify and output a promotional offer for each basket-sub element of customer value combination that optimizes a financial measure.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 11/167,685. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

10) U.S. Patent 5,812,988 (hereinafter, Sandretto) is well known to those of average skill in the art. Sandretto describes an invention that combines asset cash flow forecasts and financial statement forecasts for assets with known cash flows with pre-determined risk return models in iterative loops to estimate actual asset values in a world where assets are completely independent and "efficiently priced". In particular, this invention relates to an iterative process to estimate a discount rate (and risk) for each of two or more assets in a portfolio with a known value.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Sandretto was used as a primary reference to reject Asset Reliance applications 10/097,344 with claims for: learning from the data as required to transform data from disparate sources into predictive models of the impact of each element of value (comprised of a plurality of items) on revenue and the other elements of value, expense and the other elements of value, capital change and the other elements of value and real options (10/097,344) without considering risk at the item or element of value level, A table containing a representative claim and the well known prior art (Sandretto) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for 10/097,344 and 5,812,988 | |
|--|---------------|
| A program storage device readable by machine, tangibly embodying a program of instructions executable by a machine to perform method steps for performing an evaluation method, the method steps comprising: | |
| preparing business data from a plurality of enterprise systems for processing, | Not Disclosed |
| quantifying a value of one or more components of a current operation value and a value of one or more growth options and a strength of each of one or more elements of value in driving a portion of an enterprise value selected from the group consisting of the one or more components of the current operation value, the one or more growth option values and combinations thereof using at least a portion of said data; | Not Disclosed |
| using said strengths to determine a value of each element of value, and | Not Disclosed |
| displaying the value of the elements of value using a paper document or an electronic display. | Not Disclosed |

Sandretto does not map to the claimed invention because it teaches away from the claimed invention as a whole:

- a) by teaching a method that relies on known cash flows at the item level to determine the appropriate discount rate (see Sandretto, C5, L1 – 4 and C18, L29 – 30). In the claimed invention the impact of the elements of value on cash flow (and real options and other categories or segments of value) is unknown and must be determined;
- b) by teaching a company market value analysis that relies on a market to book value ratio, where book value is calculated using traditional financial statements (see Sandretto, C36, L32 - 52). In the claimed invention, the calculated values of the elements of value, growth options and market sentiment fill the gap between traditional book value and market value;
- c) by teaching that economic variables drive cash flow in place of teaching that the elements of value drive cash flow and value (see Sandretto, C8, L64 - 65);
- d) by teaching that the only unknown value in asset valuation is the discount rate. When actual asset values are obtained, the discount rate is changed (see Sandretto, C29, L19 - 50). By way of contrast, in the claimed invention the discount rate for company and element of value valuation is known; and
- e) by implicitly assuming that there is no impact of one asset on the other (see Sandretto, FIG. 2 – FIG. 5, FIG. 9 – FIG. 10). In the claimed invention, the impact of one element of value on the other elements of value is unknown and must be determined.

Other ways in which Sandretto teaches away from the claimed invention include teaching:

- f) the use of predetermined models in place of learning from the data to transform data into models (see Sandretto C17, L53 - 56);
- g) item (i.e. asset) level and company operating unit level analysis in place of element of value level analysis (see Sandretto FIG. 6, FIG. 9 – FIG. 14, C17, L51 – 58 & C34, L6 – C36, L51);
- h) the use of iterative loops that determine item risk estimates in place of an analysis that does not consider item risk or element of value risk (see Sandretto, C8, L60 – C9, L17);
- i) the use of risk return models in place of predictive models (see Sandretto, FIG. 1, number 120);
- j) the reporting of item values and summary balance sheet numbers in place of the claimed reporting of values by element of value (see Sandretto, FIG. 6 and FIG. 11 – FIG. 14); and
- k) an exclusive focus on cash flow/earnings in place of an analysis by category of value that includes growth options (see Sandretto, C2, L60 – 65).

Simply put, Sandretto does not teach or suggest any aspect of the claimed invention.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent applications 10/097,344. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

11) U.S. Patent 4,989,141 (hereinafter, Lyons) is well known to those of average skill in the art. Lyons describes an invention that collects, organizes, manages and consolidates data

and provides user defined capabilities for creating financial and corporate reports with the integrated data. In particular, the Lyons invention provides each user with the ability to establish data definitions, conversion rules, data precision rules and data integrity rules that define interactions with the system.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Lyons was used as the primary reference to reject two Asset Reliance applications (08/999,245 and 10/282,113) with claims for integrating data in accordance with a single, common definition (aka common schema) and then using the data to complete analyses and develop reports. Lyons teaches away from the claimed method of using a common schema by providing each user with the ability to define their own schema. A table containing a representative claim and the well known prior art (Lyons) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 10/282,113 and 4,989,141 | |
|--|---|
| An advanced enterprise data integration system, comprising: | Lyons describes a system for data integration |
| a computer with a back-end interface, coupled to a plurality of data sources, and | |
| an application software segment configured to convert data source information to a common schema and store said converted data in an application database for use in processing, | Lyons teaches an invention that places information into a data store along with a SEPT value, Schedule, Entity, Period, Type, for use in processing (see Lyons, abstract, C2, L46 – 50) |
| where the plurality of data sources use different data formats, and | Lyons teaches an invention that can obtain data from sources using different formats (see Lyons, C21, L25 – L60) |
| where a common schema comprises a single, common data dictionary | Not Disclosed |

Lyons teaches away from the claimed invention by teaching an invention that was created to allow each user to define the terms that support their analyses by using as many as six data dictionaries (see Lyons, C2, L11 – 15 and C7, L1 - 11).

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent applications 08/999,245 and 10/282,113. As a result, two novel inventions have not received the patent protection they are entitled to receive under the law.

12) Published Patent Application 2003/0208427 (hereinafter, Peters) is also well known to those of average skill in the art. Peters describes an invention that assesses a client's current portfolio holdings in order to develop an investment risk profile, compares investment risk classifications based upon portfolio holdings, recommends specific portfolio changes based on asset classes to create an optimized portfolio for the client's investment risk profile. In particular, Peters describes the development of an efficient frontier coupled with a specific portfolio selection that recognizes the investors risk preferences. U.S. Patent 7,028,005 (hereinafter, Messmer) is also well known to those of average skill in the art. See number 10 in section A of Attachment B for details.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Peters and Messmer were used as references to support the rejection of claims in an Asset Reliance application (10/748,890) with claims for learning from the data as required to transform data from disparate sources into predictive models of the impact of each element

of value (comprised of a plurality of items) on revenue and the other elements of value, expense and the other elements of value, capital change and the other elements of value, market sentiment and the other elements of value, derivatives and the other elements of value, investments and the other elements of value and real options for an organization. The predictive models are then used to identify the value of individual items. A table containing a representative claim and the well known prior art (Peters and Messmer) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 10/748,890, Peters and Messmer | |
|--|--|
| A system for organization return management comprising: a plurality of computers connected by a network each with a processor having circuitry to execute instructions; a storage device available to each processor with sequences of instructions stored therein, which when executed cause the processors to: | |
| establish a detailed data dictionary as required to define a plurality of cells within a matrix of market value for an organization where each matrix cell is defined by a segment of value and an element of value or an external factor and where each of the elements of value and external factors consists of a plurality of items, | Not Disclosed |
| integrate a plurality of data representative of an organization from a plurality of organization narrow systems in accordance with the matrix cell definitions, | Not Disclosed |
| transform at least part of said integrated data into an impact summary for each of one or more elements of value and one or more external factors by using a series of models, | Not Disclosed |
| quantify an impact by item of the elements of value and the external factors on a return from each segment of value by analyzing said data with a series of models that use the impact summaries as an input, | Not Disclosed |
| identify one or more scenarios and determine an expected range of values for each impact summary under each scenario, and | Messmer does teach the use of a plurality of scenarios to simulate the market bidding for assets (see Messmer, C9, L33 – 45) |
| simulate an organization financial performance using said matrix and the expected range of values for the impact summaries in order to quantify a total organization risk by item before outputting said element of value impacts, external factor impacts, and total organization risk by item | Not Disclosed |

| | |
|---|---------------|
| where the impact summaries are linked together when they are not independent. | Not Disclosed |
|---|---------------|

Peters and Messmer do not map to the claimed invention as they simply do not teach or suggest most of the claimed processing steps and in a number of cases they teach away from the claimed processing. In particular, Peters and Messmer:

- a) do not teach or suggest establishing a detailed data dictionary as required to define a plurality of cells within a matrix of market value for an organization where each matrix cell is defined by a segment of value and an element of value or an external factor and the elements of value and external factors each consist of a plurality of items. In fact, Peters teaches away by teaching reliance on discredited theories that teach an exclusive focus on cash flow while ignoring most of the risks included in the matrix of market value (see Peters, paragraphs 8 – 11);
- b) do not teach or suggest integrating a plurality of data representative of an organization from a plurality of organization narrow systems in accordance with the matrix cell definitions;
- c) do not teach or suggest transforming at least part of said integrated data into an impact summary for each of one or more elements of value and one or more external factors by using a series of models where the impact summaries are linked together when they are not independent. In fact, Messmer teaches away from grouping items into elements of value by category of value based on similarity by teaching the grouping of assets based on geographical location and seller groups (see Messmer, C8, L11 – 30);
- d) do not teach or suggest quantifying an impact by item of the elements of value and the external factors on a return from each segment of value by analyzing said data with a series of models that use the impact summaries as an input. In fact, Messmer teaches away by teaching valuation in accordance with pre-defined criteria and by teaching the use of values from a group of assets to value similar assets (see Messmer, claim 1). Peters teaches away by teaching value analysis in accordance with specific investors' risk profile (see Peters, paragraph 80);
- e) do not teach or suggest determining an expected range of values for each impact summary under two or more scenarios; and
- f) do not teach or suggest simulating an organization financial performance using said matrix and the expected range of values for the impact summaries in order to quantify a total organization risk by item before outputting said element of value impacts, external factor impacts, and total organization risk by item. In fact, Messmer teaches away by teaching that asset values and risks are a function of market demand instead of organization performance and that market dynamics should be simulated to estimate asset values (see Messmer, C9, L33 – 45).

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 10/748,890. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

13) U.S. Patent 6,012,053 (hereinafter, Pant) is well known to those of average skill in the art. Pant describes a mechanism through which results from a search query are ranked according to user specified relevance factors to allow the user to control how the search results are presented. In particular, the Pant invention provides the user with the ability to assign weights to different attributes of the search results, generate a score for each item in the results using said weights and then present results ranked according to the score. Sandretto is also well known in the art as discussed in more detail under number 10 of the instant attachment section.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Pant and Sandretto were used as references to reject Asset Reliance application 10/750,792 with claims for determining the impact of keywords on organization financial performance and using said impacts to calculate a value for each keyword. A table containing a representative claim and the well known prior art (Pant and Sandretto) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for 10/750,792, Pant and Sandretto | |
|---|---------------|
| A non-transitory program storage device readable by a computer, tangibly embodying a program of instructions executable by at least one computer to perform data processing steps, comprising: | |
| preparing a plurality of data from a plurality of organization related systems, a user input and an Internet for processing, | Not Disclosed |
| obtaining one or more keywords and a set of classification rules for each keyword from a user, | Not Disclosed |
| searching for one or more keyword matches on the Internet, | Not Disclosed |
| storing one or more locations for each keyword match found during the search of the Internet, | Not Disclosed |
| counting and classifying said matches from each stored location for each keyword, | Not Disclosed |
| transforming said counts for each keyword into one or more performance indicators and a summary of said performance indicators for each keyword, | Not Disclosed |
| developing a model of an organization financial performance by a category of value from the prepared data that utilizes the summaries for each keyword as an input, and | Not Disclosed |
| quantifying and outputting a contribution of each of the one or more keywords to the organization financial performance by the categories of value using said model of organization financial performance | Not Disclosed |
| where the keyword performance indicators are linked together when they are not independent. | Not Disclosed |

Pant and Sandretto do not map to the claimed invention as they simply do not teach or suggest most of the claimed processing steps. Sandretto teaches away from the claim as a whole by teaching a method that requires known cash flows at the item level, that real options do not need to be analyzed and that implicitly assumes market sentiment does not exist (see Sandretto, C2, L60 – 65 and C18, L29 – 30 also see discussion under number 10 of this section for additional detail). By way of contrast, in the claimed invention the cash flow, real option and market sentiment impact of the elements of value are unknown. Other

reasons the two references do not map to the claims include:

- a) Pant does not teach or suggest obtaining one or more keywords and a set of classification rules for each keyword from a user. Pant does not mention "keyword" a single time,
- b) Pant does not teach or suggest searching for one or more keyword matches on the Internet. Pant does not mention "keyword" a single time,
- c) Pant does not teach or suggest storing one or more locations for each keyword match found during the search of the Internet. Pant does not mention "keyword" a single time,
- d) Pant does not teach or suggest counting and classifying said matches from each stored location for each keyword. Pant does not mention "keyword" a single time,
- e) Pant does not teach or suggest transforming said counts for each keyword into one or more performance indicators and a summary of said performance indicators for each keyword where the keyword performance indicators are linked together when they are not independent,
- f) Sandretto does not teach or suggest developing a model of an organization financial performance by a category of value from the prepared data that utilizes the summaries for each keyword as an input. In fact Sandretto teaches away by teaching an exclusive focus on cash flow/earnings (see Sandretto, C2, L60 – 65), and/or
- g) Pant does not teach or suggest quantifying and outputting a contribution of each of the one or more keywords to the organization financial performance by the categories of value using said model of organization financial performance. In fact, Pant teaches away by teaching a reliance on user specified criteria to evaluate documents and records (see Pant, abstract, FIG. 1 and C1, L53 – 61) in place of financial impact.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 10/750,792. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

14) U.S. Patent 7,630,986 (hereinafter, Herz) is well known to those of average skill in the art. Herz describes a system for securely exchanging information and messages about buyer characteristics and preferences with sellers of products and services. The Herz specification also describes the use of collaborative filtering to combine the buyer characteristics and preferences with information about previous buyers to identify products and services that are likely to be of interest to buyers. As is well known in the art, collaborative filtering identifies items of interest to buyers by assuming that people with similar characteristics and/or preferences will want similar things.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Herz was used as the only reference to reject most of the claims in an Asset Reliance application (11/358,196) with claims for analyzing user data to develop a context for a user and to use that context to customize offerings (ads, configurations, products, services, etc.) without considering the buying habits of similar individuals. In application 11/358,196 a context identifies and defines an impact of up to eight context layers (i.e. element, resource, environment, transaction, reference, measure, relationship and lexical) on the user entity function measures. It should be noted that because of clerical errors in application 11/358,196, a new application (12/910,829) covering the same subject matter has been filed. A table containing a representative claim and the well known prior art (Herz) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for 11/358,196/12/910,829 and Herz | |
|--|---|
| 1. A program storage device readable by a machine, tangibly embodying a non transitory program of instructions executable by the machine to perform steps, the steps comprising: | |
| aggregating a plurality of data related to a user entity and to one or more offerings that may be provided by one or more offering entities to said user entity in a format suitable for automated analysis; | Herz teaches aggregating a plurality of data related to a user entity and to one or more offerings that may be provided by one or more offering entities to said user entity in a format suitable for automated analysis (see Herz, FIG. 7) |
| transforming at least a portion of said data into a context for said user entity; | Not Disclosed |
| using said context and the data for the one or more offerings to create a personalized offering for one or more steps in a commerce chain | Not Disclosed |
| where the one or more steps in a commerce chain are selected from the group consisting of advertise, configure, produce, offer and deliver. | Herz teaches where the one or more steps in a commerce chain are selected from the group consisting of advertise offer and deliver (see Herz, FIG. 7) |

Herz does not map to all of the claimed invention because it teaches away from the specific definition of context taught by the claimed invention. In particular, Herz teaches the use of profiles consisting of data provided by the user about his or her interests, recent purchases, user indicated preferences, inferences made from user activities, click stream data and responses to questions (see Herz, C6, L6; C17, L17; C37, L30; C51, L32 – 60; C71, L5 – 9; and C112, L41-51). Herz also teaches away by teaching the use of collaborative filtering and profile preferences for selecting items for recommendation to a user in place of a reliance on a user function measure context (see Herz, FIG. 7, C1, L44 – 55).

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 11/358,196. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

15) U.S. Patent 4,414,629 (hereinafter, Waite) is well known to those of average skill in the art. Waite describes a method for structuring a field of data (i.e. battery failure data, chemical toxicity data, etc.) about a plurality of known objects so that the structured data can be used to support one or more predictions about a new, unknown object in the field (i.e. a new chemical, a new battery, etc.). Waite also teaches that frequency distribution data can be used to identify causal actions or events in a sequence of actions or events. U.S. Patent 5,361,201 (hereinafter, Jost) is also well known to those of average skill in the art. Jost describes an invention that uses neural network models and error models developed from properties with known values to estimate values for new, unknown properties in the same neighborhoods and identify the property characteristics that affect said estimated values. In short, both Waite and Jost describe methods for making classifications and predictions about unknown entities based on information and/or models developed from known entities.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Waite and Jost were used as references to support the rejection of the claims in an Asset

Reliance application (10/743,417) with claims for using data about a single entity to create a predictive model that has utility in regression analysis. A table containing a representative claim and the well known prior art (Waite and Jost) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 10/743,417, Waite and Jost | |
|---|---------------|
| A predictive model method, comprising: using a computer to transform a plurality of data that represents a physical object or substance into a predictive model by completing the steps of: | |
| accepting a plurality of input that identifies: a data field from the plurality of data that will be modeled and a plurality of data fields from the plurality of data that will be used for a first input data, | Not Disclosed |
| receiving the first input data into a plurality of different types of initial predictive models to develop an initial model configuration for each type of model and then selecting an input data set from the plurality of predictive models using a variable selection algorithm after a training of each predictive model type is completed; | Not Disclosed |
| receiving the input data set as an input-into a second model stage that selects a subset of the input data set as an output, | Not Disclosed |
| receiving said second model stage output as an input into a third predictive model stage to develop a second plurality of different types of predictive models, | Not Disclosed |
| identifying a lowest error predictive model from the second plurality of predictive models as a final predictive model | Not Disclosed |
| and outputting the final predictive model | Not Disclosed |

Waite and Jost do not map to the claimed invention because they teach away from every stage of the novel process for creating a model related to a physical object or substance as detailed below:

- a) Waite and Jost both teach away from the claimed invention as a whole by teaching the need for data from a plurality of known objects in order to create models (see Jost, FIG. 8 and C5, L44 - 51) or identify data packages that can be used to make predictions (see Waite, C4, L9 - 34) in place of the claimed reliance on data related to a single object;
- b) Stage 1 - *receiving the first input data into a plurality of different types of initial predictive models to develop an initial model configuration for each type of model and then selecting an input data set from the plurality of predictive models using a variable selection algorithm after a training of each predictive model type is completed.* Jost teaches away from this claimed stage by teaching the use of a single predictive model (i.e. a neural network) to complete all processing (see Jost,

C2, L33). Waite teaches away from the use of a plurality of models to select an input data set by teaching the use of mental processes to select an initial set of input data for a data package analysis (see Waite, C3, L24 - 40);

- c) Stage 2 - *receiving the input data set as an input into a second model stage that selects a subset of the input data set as an output*. Jost teaches away from the use of this stage by teaching the use of a single stage of processing to develop models (see Jost, C2, L33). Waite teaches away from this stage by teaching that the information content of the data package needs to be evaluated before the next step in processing can be determined (see Waite, FIG. 1, FIG. 2, C19, L64 – C20, L9) and that the amount of data may be increased or stay the same instead of decreasing in size (see Waite C20, L47 - 51);
- d) Stage 3 - *receiving said second model stage output as an input into a third predictive model stage to develop a second plurality of different types of predictive models, identifying a lowest error predictive model from the second plurality of predictive models as a final predictive model and outputting the final predictive model*. Jost teaches away from this claimed stage by teaching the use of a single type of model, a neural network, to complete all processing and that a separate error model is required for a final predictive model (see Jost, C2, L33 & C6, L19 - 22). Waite teaches away from this stage by teaching that the information content of the data package needs to be evaluated before the next step in processing can be determined (see Waite, FIG. 1, FIG. 2, C19, L64 – C20, L9) and that the amount of data may be increased or stay the same instead of decreasing in size (see Waite C20, L47 - 51).

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 10/743,417. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

16) U.S. Patent Application 2003/0182394 (hereinafter, Ryngler) is well known to those of average skill in the art. Ryngler describes a context engine that reviews information about an entity, determines its current state (tired, bored, etc.) and identifies one or more of three types of relationships:

1. relationship of an entity to state (Tim (entity) is bored (state)),
2. relationship of an entity to another entity (Tim (entity) is in (relationship) New York (entity)), and
3. the relationship of a state to a relationship between two entities (Tim (entity) is tired (state) of being in (relationship) New York (entity)).

The information about entity state and/or relationships is developed and provided to context aware applications. Ryngler also enables context aware applications by supporting the use of predefined combinations of entities, states and relationships called "context packs".

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Ryngler was used as the primary reference to reject most of the claims in an Asset Reliance application (12/114,784) with claims for developing and using a context of entity function measure performance to identify the best results for a query. A table containing a representative claim and the well known prior art (Ryngler) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 12/114,784 and Ryngler | |
|--|--|
| A query method, comprising: using a | |

| | |
|--|---|
| computer to complete a series of processing steps, comprising: | |
| aggregate a plurality of data that includes data related to a subject entity | Ryngler discusses the collection of data related to a subject entity and an entity function (see Ryngler, FIG. 2, paragraph 168 and paragraph 174) |
| develop a summary of a subject entity situation by analyzing said subject entity related data where the summary of a the subject entity situation comprises a complete context for the one or more subject entity function measures and a model of subject performance for each of said measures, and where the subject entity physically exists | Not Disclosed |
| receive a query from the subject entity, and | Ryngler teaches support for queries regarding the users': activities, appointments, availability, proximity and travel time (see Ryngler, FIG. 26, FIG. 32, FIG. 33, FIG. 51, FIG. 55, paragraph 278 - 280, paragraph 285 and paragraphs 311 – 316) |
| provide a plurality of results in response to said query from the aggregated data by using said subject entity situation summary and two or more relevance measures to prioritize the results | Not Disclosed |

Ryngler does not map to most of the claimed invention because Ryngler does not expressly or inherently teach most of the process steps in the claimed invention. In particular, Ryngler does not teach or implicitly describe anything about creating a situation summary with or without considering an entity function measures. In fact, the word “measure” is not used in any of the 59 figures or 68 pages of the specification. This is not surprising since Ryngler teaches away from the claimed invention by teaching a focus on entities, states and relationships to define context (see Ryngler, abstract, FIG. 15, FIG. 17 and paragraph 251) in place of the claimed focus on entity function measure performance. Consistent with the failure to mention the word measure, Ryngler does not teach or suggest anything about developing a context or a complete context for an entity function measure. Also consistent with the failure to mention the word measure, Ryngler does not teach or suggest anything about developing or using a model of the one or more entity function measures. Ryngler does teach developing models of entity states (see Ryngler, FIG. 44 and paragraph 306).

Ryngler does mention a definition of context that is very broad (i.e. context includes the aggregate knowledge about a user's situation and intent) while teaching a narrower focus on entities, states and relationships. Those of average skill in the art will recognize that an entity function measure is not identical to an entity. Consequently, the analysis and modeling of function measures or function measure context is not implicit in any of the analyses of entities, states and relationships taught by Ryngler.

Ryngler also does not teach or suggest anything about receiving a query from a subject entity. As noted in the table above, Ryngler does support queries about the user and does provide information about entities, states and relationships that can be used to support applications but as noted previously this teaches away from the claimed method. Ryngler

does not expressly or inherently teach anything about relevance measures. In fact, Ryngler teaches away by teaching the use of a context engine that relies on entity, state and relationship information in some unspecified manner to filter information in place of the claimed use of relevance measures and function measure context to identify relevant information (see Ryngler, FIG. 3, FIG. 5, FIG. 6, FIG. 12, paragraph 81, paragraph 154, paragraph 169, paragraphs 175 – 177, paragraphs 213 – 222).

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 12/114,784. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

17) U.S. Patent 6,278,981 (hereinafter, Dembo) is well known to those of average skill in the art. Dembo describes a computer-implemented process for creating compressed portfolios that replicate the performance of the collection of instruments in a large and/or complex portfolio. In particular, a compressed portfolio is a portfolio that contains a relatively small number of relatively simple financial instruments that are sensitive to changes in the same risk factors contained in the bigger portfolio. In simulations the smaller portfolio's aggregate behavior is almost identical to the large and/or complex portfolio. The compressed portfolio is used to support the analysis and management of risk for a portfolio of tradable securities.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Dembo was used as a primary reference in rejecting the claims of an Asset Reliance application (11/278,419) with claims for measuring risk for a portfolio of securities by segment of value and element of value. A table containing a representative claim and the well known prior art (Dembo) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 11/278,419 and Dembo | |
|--|--|
| 1. A risk method, comprising: | |
| using a computer to complete the steps of: aggregating data related to: a security portfolio with one or more segments of value, one or more elements of value and a risk of one or more events where the event risks and the elements of value may have a tangible impact on a value of the security portfolio, | Dembo teaches the aggregation of data related to a security portfolio with one or more segments of value |
| transforming said data into a model of each of the one or more segments of the portfolio value where the model of each segment of portfolio value determines a contribution of each of the one or more elements of value to a segment value by using an impact summary for each of the elements of value as an input to the model, | Not Disclosed |
| determining an expected range of values for the data used to develop each element of value impact summary under two or more scenarios, | Not Disclosed |
| measuring a plurality of risks by source and segment by using the expected ranges for impact summary input data, the event risk | Dembo does mention using events in simulations (see Dembo, C19, L4) |

| | |
|--|---------------|
| data and the one or more segment models to simulate portfolio value, | |
| and outputting said measured risks before optionally completing a series of tasks related to said risks where the tasks are selected from the group consisting of identifying an optimal set of risk transfer transactions for said portfolio, completing an optimal set of risk transfer transactions for said portfolio and combinations thereof | Not Disclosed |
| where the value of the security portfolio comprises a combined value of a financial asset segment of value and a market sentiment segment of value | Not Disclosed |

Dembo does not map to most of the claimed invention because Dembo does not teach most of the process steps in the claimed invention. In particular, Dembo does not teach or suggest:

- a) transforming data into a model of each of the one or more segments of the portfolio value where the model of each segment of portfolio value determines a contribution of each of the one or more elements of value to a segment value by using an impact summary for each of the elements of value as an input to the model. In fact, Dembo teaches away by teaching the use of Value at Risk (VaR) which analyzes risk at the portfolio level (see Dembo, C1, L26 - 40). As is well known in the art, analysis at the portfolio level conflates risk from different segments of value. Dembo exacerbates this difference by compressing the portfolio in a manner that conflates the different elements of value (see Dembo, C5, L13 - 40),
- b) determining an expected range of values for the data used to develop each element of value impact summary under two or more scenarios. Again, Dembo teaches away by equating scenarios with market outcomes in place of a range of values form model inputs (see Dembo, C6, L1),
- c) measuring a plurality of risks by source and segment by using the expected ranges for impact summary input data, the event risk data and the one or more segment models to simulate portfolio value. Because of the segments of value and elements of value are compressed (and conflated) out of existence, Dembo can not measure risk by source,
- d) and outputting said measured risks before optionally completing a series of tasks related to said risks where the tasks are selected from the group consisting of identifying an optimal set of risk transfer transactions for said portfolio, completing an optimal set of risk transfer transactions for said portfolio and combinations thereof, and
- e) where the value of the security portfolio comprises a combined value of a financial asset segment of value and a market sentiment segment of value. As noted previously, Dembo compresses and conflates the segments of value and elements of value out of existence (see Dembo, C5, L13 - 40). As is well known in the art, Value at Risk which Dembo teaches relies on assumptions about market efficiency that teach away from the existence of market sentiment as a source of value and risk.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 11/278,419. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

18) U.S. Patent application 2002/0120471 (hereinafter, Drazen) is well known to those of average skill in the art. Drazen teaches storing a plurality of different medical guidelines for different health conditions, and storing historical patient information data for a plurality of patients. Patient information is collected from users via a global network and evaluated to generate a patient-specific risk report and a patient treatment plan that includes patient-specific recommendations for reducing risk based upon the different medical guidelines.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Drazen was used as the primary reference to support the rejection of Asset Reliance application 12/545,851 with claims for using a context for a health of a subject to forecast the subject's expected longevity and use of resources. A table containing a representative claim and the well known prior art (Drazen) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 12/545,851 and Drazen | |
|---|--|
| A translational research planning method, comprising: | |
| using a computer to complete the steps of: | Not Disclosed |
| preparing data from a plurality of subject related systems for processing, | Drazen teaches the use of data from user terminals (see Drazen, FIG.1) |
| defining a subject using at least a portion of said data and a plurality of user input, | Drazen teaches the use of user input to help define the subject (see Drazen, FIG. 3) |
| analyzing said data as required to define and store a context for a health of said subject, | Not Disclosed |
| obtain data identifying an expected impact of a research discovery or a new best practice on the health of a subject, | Not Disclosed |
| using said context for the health of said subject to simulate the impact of said research discovery or best practice in order to forecast a sustainable longevity for the subject and a resource requirement forecast for the subject given said longevity, and | Not Disclosed |
| output said forecast longevity and resource requirement forecast | Not Disclosed |

Drazen does not map to most of the claimed invention because it does not teach or suggest most of the claimed processing steps. In particular, Drazen does not teach or suggest:

- a) analyzing said data as required to define and store a context for a health of said subject. The word context is not mentioned once;
- b) obtain data identifying an expected impact of a research discovery or a best practice on the health of a subject,
- c) using said context for the health of said subject to simulate the impact of said research discovery or new best practice in order to forecast a sustainable longevity for the subject and a resource requirement forecast for the subject given said longevity. In fact, Drazen teaches away by teaching a reliance on established medical guidelines (see Drazen, abstract, FIG. 2, paragraph 3) and trends in patient's health (see Drazen, paragraph 51) in place of context. Drazen also teaches away by teaching a reliance on a rules engine in place of simulation to forecast the impact of medical interventions and develop patient treatment plans (see Drazen, paragraph

54), and

d) output of said forecast longevity and resource requirement forecast.

End result: Well known prior art is being used to support the apparently improper rejection of Asset Reliance patent application 12/545,851. As a result, a novel invention has not received the patent protection it is entitled to receive under the law.

19) "How to sort out the premium drivers of post-deal value"; Mergers and Acquisitions; Jul/Aug 1993, Vol. 28, Iss.1; pg. 33, 5 pgs (hereinafter, Bielinski) describes an application of the Value Based Management System (hereinafter, VBM) which is well known to those of average skill in the art.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Bielinski was used as the primary reference to reject Asset Reliance applications 09/764,068 and 10/287,586 with claims for learning from the data with predictive models as required to discover the value drivers for each element of value, using the value drivers in best fit models to quantify the contribution of the elements of value to the components of value (revenue, expense and capital change), and the categories of value. A table containing a representative claim and the well known prior art (Bielinski) that is apparently being improperly used to support the rejection of at least some of the claims is shown below.

| Claim map for application 09/764,068 and Bielinski | |
|--|---|
| An enterprise method, comprising: | |
| using a computer to complete the steps of: | |
| preparing data representative of an enterprise for processing, | Bielinski teaches the use of data representative of an enterprise (see Bielinski pages 34 and 35) |
| transforming at least a portion of the data into a model of an enterprise market value by a category of value by completing a plurality of multivariate analyses that utilize said data, | Not Disclosed |
| identifying a tangible value contribution of each of one or more elements of value to a value of each of the categories of value using said model of enterprise market value, and | Not Disclosed |
| outputting said tangible value contributions | Not Disclosed |
| where the categories of value are current operation, real option, and market sentiment | Not Disclosed |

Bielinski does not map to the claimed invention because it teaches away from almost all of the claimed processing steps. Bielinski teaches away from transforming at least a portion of the data into a model of an enterprise market value by a category of value by completing a plurality of multivariate analyses that utilize said data by teaching an exclusive reliance on cash flow to determine market value (see Bielinski, Keys to creating value on page 34). Bielinski teaches away from identifying a tangible value contribution of each of one or more elements of value to a value of each of the categories of value using said model of enterprise market value by teaching that the components of value drive the value of the elements of value (the exact opposite of the claimed relationship, see Examiner's Answer dated December 23, 2009) and by teaching away from the analysis of categories of value other

than the current operation. Bielinski also teaches away from the analysis of the market sentiment category of value by implicitly teaching the efficient market hypothesis (as is well known in the art, one of the principles of Shareholder Value Analysis which VBM relies on, see Bielinski, page 34).

| | | |
|-------------|---|---|
| | 09/764,068 and 10/287,586 | Bielinski plus U.S.P.T.O. assertions |
| Teaching #1 | <u>Elements of value determine the value of the components of value (and the categories of value)</u> | <u>Components of value determine the value of the elements of value</u> |
| Teaching #2 | The components of value (and the categories of value) combine to determine total business value | The elements of value combine to determine total business value |
| Teaching #3 | Value is best analyzed by category of value including real options and market sentiment | Real options don't need to be analyzed and market sentiment doesn't exist |

Section B. Specific examples related to an apparent lack of knowledge and/or understanding of well known principles of the relevant arts include:

- 1) The apparently improper rejection of Asset Reliance applications detailed under section A of this attachment provides clear and convincing evidence that the U.S.P.T.O. personnel "examining" said patent applications lack sufficient knowledge of the arts and/or understanding of well known principles of relevant arts to complete a patent examination that meets the statutory requirements for said examination;
- 2) The written description rejection of patent application 09/761,670 appears to provide evidence of an apparent lack of knowledge and/or understanding of well known principles of relevant art. One reason for this is that the rejection relies on an assertion that claimed neural network model development method requires subjective judgments. No evidence was provided to support this assertion and the claimed method has been cited by academic experts as being the best method for automatically developing network models. Further evidence of the arbitrary and capricious nature of the claim rejection can be found by reviewing the disclosure of U.S. Patent 7,251,582 which uses a very similar model development method. A review of issued patents shows that there are 3,000+ issued patents that rely on network model development methods that require more subjective judgments than the automated method claimed in application 09/761,670.
- 3) The written description rejection of patent application 09/940,450 appears to provide evidence of an apparent lack of knowledge and/or understanding of well known principles of relevant art. Further evidence of the arbitrary and capricious nature of the claim rejections can be found by reviewing the disclosure of U.S. Patent 6,732,095 which uses a very similar method, the prosecution history of application 10/025,794 which includes a notice of allowance for using the same method for developing an integrated database and the prosecution history of application 10/166,758 which correctly notes that patent 5,615,109 includes an integrated database. Patent 5,615,109 was incorporated by reference in application 09/940,450.
- 4) The written description rejection of patent applications 09/688,983, 10/743,417 and

12/185,093 appears to provide evidence of an apparent lack of knowledge and/or understanding of well known principles of relevant art. One reason for this is that the rejections rely on an assertion that the claimed model development method – which relies on stepwise regression, induction and cross validation – is subjective. No evidence was provided to support this assertion and those of average skill in the relevant arts will recognize that none of the claimed steps are subjective. Further evidence of the arbitrary and capricious nature of the claim rejections can be found by reviewing the disclosure of U.S. Patent 7,283,982 which uses a very similar method for model development.

- 5) The written description rejection of patent application 11/167,685 appears to provide evidence of an apparent lack of knowledge and/or understanding of well known principles of relevant art. One reason for this is that the rejection relies on an assertion that the description of an application that relies on multi-criteria optimization algorithms needs to provide detail regarding how the different combinations of criteria will be analyzed. No evidence was provided to support this assertion and those of average skill in the relevant arts will recognize that the use of multi-criteria optimization algorithms does not require anything more than the specification of the different criteria. Although not required, a cross referenced patent includes a detailed example of the identification and use of different criteria for a multi-criteria optimization.

As shown in the table below, the apparently nonstatutory rejections for written description appear to be limited to the rejection of applications with pending claims similar to those contained in one or more patents previously issued to a large, well known company.

| ARI application rejected for written description | Prima facie invalid patent with similar claims |
|--|--|
| 09/688,983 | 6,876,992 |
| 09/761,670 | 6,249,768 |
| 09/940,450 | 6,732,095 |
| 10/743,417 | 7,283,982 |
| 11/167,685 | 7,606,727 |
| 12/185,093 | 7,624,054 |

This practice also provides several benefits to the large, well known companies receiving these patents:

- 1) Patents are provided for inventions that were developed years after a smaller company developed a similar invention;
- 2) Inventions that are competitive in providing similar functionality do not receive the patent protection they are apparently entitled to receive under the law; and
- 3) The applicants for potentially competitive inventions are forced to go to the time and expense of traversing the arbitrary and capricious rejections.

Section C. Examples of assigning similar inventions to different statutory classes include:

| Area | Normal Class | ARI Class |
|-----------------------|--|-----------|
| Context Aware | 455 (Telecommunications) 706 (Artificial Intelligence) | 705, 707 |
| Data Management | 707 (Data Processing) 709 (Multicomputer Data Transfer) | 705 |
| Modeling | 706 (Artificial Intelligence) 707 (Data Processing) | 705, 707 |
| Personalized Medicine | 600 (Medical) 705 (Business Methods) | 707 |

Summarizing the information provided in this attachment, an apparent lack of knowledge and understanding of: well known prior art and/or well known principles of relevant art have led to the apparently improper rejection of at least twenty two (22) Asset Reliance patent applications.

Many more examples of an apparent lack of knowledge and understanding of well known prior art and/or well known principles of relevant art can be provided.

Attachment B

Section A. In virtually every case, the well known prior art¹ cited in the apparently improper Asset Reliance patent application rejections discussed in Attachment A is the same prior art that appears to raise substantial new questions about the patentability of a number of patents issued to large, well known companies. Examples of an apparent failure to cite well known prior art to reject patent applications from large, well known companies includes:

1) "Experiences of Developing and Deploying a Context-Aware Tourist Guide: The GUIDE Project, MOBICOM 2000, Boston, MA, pg. 20-31" (hereinafter Cheverst or GUIDE) is well known to those of average skill in the art. Among other things, Cheverst teaches the use of a fixed set of responses to expected situations to guide the tourists in a city and the development of a map of the best route for touring the city (see Cheverst, Figure 4).

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners at the U.S.P.T.O did not consider Cheverst to be relevant to an application filed on behalf of MapQuest (10/330,563) which teaches the development of a detailed route map. Further evidence can be found by noting that the Examiners at the U.S.P.T.O did not consider Cheverst to be relevant to an application filed on behalf of SAP (11/184,731) which teaches the establishment of a fixed set of responses for expected situations. The applications matured into U.S. Patents 7,474,960 (MapQuest) and 7,716,278 (SAP). A table containing a representative claim and the well known prior art (GUIDE) that was apparently not considered is shown below.

| Claim map for 7,474,960 and GUIDE | |
|---|--|
| A computer-implemented method for presenting a route, the method comprising: | GUIDE teaches a computer implemented method for using a fixed set of responses to help visitors identify the best route for touring a city (see GUIDE, page 20) |
| accessing route information for a route that includes an origin location and a destination location; | GUIDE teaches accessing route information for a route that includes an origin location and a destination location (see GUIDE Figure 4, page 23) |
| generating a context map that includes the origin location, the destination location, and a route between the origin location and destination location; | GUIDE teaches the development of a context map that includes the origin location, the destination location, and a route between the origin location and destination location (see GUIDE Figure 4, page 23 and section 3.4.2 on page 23); |
| identifying maneuvers that are within a predetermined distance from one another; generating, based at least in part on the identified maneuvers that are within a predetermined distance from one another, at least one detail map which is associated with the context map and includes a portion of the route such that the detail map includes at most one of the origin location or | GUIDE teaches an application that uses 120 location/navigation point objects and 280 relationship objects to perform route guidance calculations. The navigation objects represent waypoints (maneuver locations) between locations and presents the tour in stages. GUIDE also teaches the use of location tags that can be used to determine the distance between identified |

¹ For the convenience of the Examiner, copies of the non-patent prior art are attached to this Petition.

| | |
|--|--|
| the destination location and the identified maneuvers; | locations and maneuvers (see GUIDE Information Model, pages 25 and 26). |
| enabling generation of a graphical user interface which includes the context map and the detail map generated based on the identified maneuvers that are within a predetermined distance from one another such that at least a portion of the route is concurrently included in both the context map and the detail map; and | GUIDE teaches the generation of a graphical user interface which includes the context map (see GUIDE Figure 4, page 23); |
| enabling displaying of the generated graphical user interface on a display associated with the user system. | GUIDE teaches the display of the generated graphical user interface on a display in a user system (see GUIDE, Figure 8, page 26 and section 4.3, page 27). |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 10/330,563 and 11/184,731 was apparently not considered. As a result, two large, well known companies received patents for inventions that do not appear to be novel.

2) "SEmantic portAL - The SEAL approach, March 27, 2001, pg. 1-27" (hereinafter SEAL) is well known to those of average skill in the art. Among other things, SEAL teaches the use of semantic similarity measure to support information retrieval.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners at the U.S.P.T.O. did not consider SEAL to be relevant to applications filed on behalf of Autonomy (09/872,938) and British Telecom (10/573,192) that rely on semantic similarity measures to support information retrieval. The applications matured into U.S. Patents 7,272,594 and 7,644,047. It is also worth noting at this point that there are a large number of other issued patents that appear to be invalid for failing to consider SEAL. A table containing a representative claim and the well known prior art that was apparently not considered is shown below.

| Claim map for 7,644,047 and SEAL | |
|--|---|
| 1. A computerized method for determining the semantic similarity of words in a plurality of words selected from a set of one or more documents, for use in the retrieval of information in an information system, comprising the steps of: | SEAL teaches that searching and querying is performed via a query module. In addition, the user can ... rank retrieved results according to semantic similarity (see SEAL, paragraph 4, page 10). |
| (i) for each word of said plurality of words: (a) identifying, in documents of said set of one or more documents, word sequences comprising the word and a predetermined number of other words; (b) calculating a relative frequency of occurrence for each distinct word sequence among word sequences containing the word; and | SEAL teaches analyzing a plurality of input sources to identify an "initial lexicon" containing relevant lexical entries and the use of a reference function that links sets of lexical entries (i.e. word sequences) from the lexicon to the set of instances they correspond to (see SEAL, page 6). |
| (c) generating a fuzzy set comprising, for | SEAL teaches the use of a <u>membership</u> |

| | |
|--|---|
| word sequences containing the word, corresponding fuzzy membership values calculated from the relative frequencies determined at step (b); and | function that assigns sets of instances from the lexicon to the sets of concepts they are members of (see SEAL, page 6). |
| (ii) calculating and storing, for each pair of words of said plurality of words, using respective fuzzy sets generated at step (i), a probability that the first word of the pair is semantically suitable as a replacement for the second word of the pair. | SEAL teaches using the membership function to develop an ontology that recognizes one concept (synset) may be represented by several words – each of the words associated with the same concept is a semantically suitable replacement for another (see SEAL, paragraph 1, page 6). |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 09/872,938 and 10/573,192 was apparently not considered. As a result, two large, well known companies received patents for inventions that do not appear to be novel.

3) "Improving Level of Service for Mobile Users Using Context Awareness", Proceedings of the 18th IEEE Symposium on Reliable Distribution Systems, Lausanne, Switzerland, Oct. 19-22, 1999 (hereinafter Couderc) is well known to those of average skill in the art. Couderc teaches using a layered software application to pass location information, bandwidth information and weather information to a browser in a mobile phone. As is well known in the art, browsers are the user interface for many applications.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners at the U.S.P.T.O did not consider Couderc to be relevant to applications filed on behalf of SAP (10/134,673 and 10/208,201) for inventions that pass location information to the user interface in a mobile phone. The applications matured into U.S. Patents 7,020,494 and 7,283,846. It is also worth noting at this point that there are a number of other issued patents that appear to be invalid for failing to consider Couderc. A table containing a representative claim and the well known prior art that was apparently not considered is shown below.

| Claim map for 7,283,846 and Couderc | |
|---|--|
| 1. A location context-aware system integrating geographical contextual information, the location context-aware system comprising: | Couderc teaches a location-aware Web service as a context service for mobile device users (see Couderc, abstract, page 1) |
| a backend enterprise server executing an enterprise application, the enterprise application including an enterprise user interface; | Couderc teaches the use of a back end "information server" that supports the execution of applications that include a user interface (see Couderc, FIG. 4) |
| a mobile device configured to interact with the enterprise application via manual input; | Couderc teaches the use of mobile devices with browsers that act as interfaces to applications (see Couderc, page 6) |
| a location service operable to determine location context information of the mobile device; | Couderc teaches a location service operable to determine location context information of the mobile device (see Couderc, page 9) |
| a mobile application server in | Couderc teaches a mobile host system |

| | |
|---|---|
| communication with the backend enterprise server and the mobile device, the mobile application server configured to generate a simplified user interface based on the enterprise user interface and the location context information, the simplified user interface comprising at least one field of the enterprise user interface which is pre-populated or not rendered based on the location context information, and further configured to transmit the simplified user interface to the mobile device. | that communicates with the back end information server and mobile devices (see Couderc, FIG. 5). The mobile devices can communicate with the system via a web browser that can display different context objects based on location context information (see Couderc, page 9). |
|---|---|

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 10/134,673 and 10/208,201 was apparently not considered. As a result, two large, well known companies received a total of three patents for inventions that do not appear to be novel.

4) "Modeling for the future" (hereinafter, Winterton) is well known to those of average skill in the art. Winterton describes a number of changes that can be made to the Value at Risk methodology to improve its utility. The changes include: recognizing a leptokurtotic distribution of risk, changing time scales and recognizing specific variables that have an impact on financial performance.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners in the U.S.P.T.O. did not consider Winterton to be relevant to an application filed on behalf of FinAnalytica (10/888,414) that teaches the modification of value at risk techniques to recognize extreme tail (leptokurtic) risk and the impact of specific variables. This patent is also listed in Attachment D as a number of published Asset Reliance applications were also ignored during prosecution. The application matured into U.S. Patent 7,711,617; a table containing a representative claim and the well known prior art that was apparently not considered is shown below.

| Claim map for 7,711,617 and Winterton | |
|--|---|
| 1. A computer-implemented system for providing optimization of a financial portfolio using a parametric leptokurtic distribution, comprising: | |
| a memory containing a database configured to store a time series comprising a plurality of risk factors applicable over at least one time horizon, a portfolio comprising a plurality of financial assets, a quantile, and one or more risk adjusted return points for the financial assets; an input device to receive input from a user; a network operatively coupled and providing communication between the memory, the input device, an output device, and a processor; where the processor is programmed to execute program modules, the program modules comprising: | A well known computer system containing well known information regarding a plurality of financial assets. |
| an association module configured to associate | |
| | Asset Reliance applications have taught |

| | |
|---|--|
| the financial assets with the risk factors; | using a module to identify relevant risks for corporate elements of value since 2000. (see published application 2004/0215551, paragraphs 271 through 298). Corporate securities aggregate the risks of the elements of value included in the corporations they represent. |
| a risk determining module configured to generate a subordinated parametric distribution model exhibiting leptokurtic behavior; | Winterton teaches the use of <u>leptokurtic - risk characterizations</u> in calculating tail risks (see Winterton, page 2, paragraph 5) |
| <p>an expected tail loss determining module configured to express a function of expected tail loss for the quantile based on the parametric distribution model exhibiting leptokurtic behavior, wherein the expected tail loss, ETL (x,ε) is defined in accordance with the equation:</p> $F(x, \zeta) = \zeta + \frac{1}{\varepsilon} \int_{\text{VaR}(x, \varepsilon)}^{\infty} [-z^T x + V_0 - \zeta]^+ f_q(z) dz,$ <p>, where the relation holds:</p> $ETL(x, \varepsilon) = \min_{\zeta \in \mathbb{R}} F(x, \zeta),$ <p>where ζ is a real number, VaR(x, ε) is Value-at-Risk of a portfolio where x=(x1, x2, . . . , xn) is a portfolio structure as a vector of portfolio allocation weights, ε is the quantile, <u>f_q(z)</u> is the parametric distribution exhibiting leptokurtic behavior, with the density function of random vector q of future log prices of all portfolio prices one period ahead, vector z, where z=(z—1, . . . , z_n), is in n-dimensional Euclidean space and is over the domain of those z such that the value -zTx+V0 is larger than VaR(x, ε), where z^T is the transposed vector of z, and V0 is present portfolio log-value; and</p> | <p>Winterton teaches the use of <u>leptokurtic - risk characterizations in calculating tail risks using the Value at Risk methodology</u> (see Winterton, page 2, paragraph 5)</p> |
| an <u>optimal portfolio determining module</u> configured to determine a set of portfolio asset weights for each of the financial assets based on the expected tail loss at each such time horizon and for each risk adjusted return point, | Asset Reliance applications have taught the <u>identification of changes that optimize portfolios</u> since 2000 (see published application 2004/0215551, paragraphs 271 through 312) |
| wherein the output device is configured to provide optimization of the portfolio based on the <u>portfolio asset weights for each risk adjusted return point</u> for the portfolio. | Asset Reliance applications have taught the <u>identification of the efficient frontier for risk and return</u> since 2000 (see published application 2004/0215551, paragraph |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 10/888,414 was apparently not considered. As a result, a large company received a patent for an invention that does not appear to be novel.

5) U.S. Patent 5,819,237 (hereinafter, Garman) is well known to those of average skill in the art. It appears to be the first U.S. patent that has claims containing the term "value at risk" and it describes the development and use of the well known Value at Risk metric. Modern portfolio theory is also well known to those of average skill in the art as detailed under item number 12 of the instant section of this attachment. Option analytics are well known to those of average skill in the art (see Sandretto, C29, L53 - 64, discussed under number 10). U.S. Patent 5,615,109 (hereinafter, Eder) is also well known to those of average skill in the art and it teaches the optimization of profit for a supply chain management activity - purchasing.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners in the U.S.P.T.O. did not consider Garman, Sandretto or Modern Portfolio Theory to be relevant to an application filed by IBM (09/534,715) that relies on "value at risk" techniques for measuring and managing supply chain risk. The application matured into U.S. Patent 6,671,673 (hereinafter, Baseman). Baseman is listed in the next section of this Attachment because the specification does not appear to provide the information that would allow someone of average skill to make and/or use the invention. A table containing a representative claim and the well known prior art that was apparently not considered is shown below.

| Claim map for 6,671,673 and 5,615,109 | |
|---|--|
| 1. A method to assist decision-making, and to closely monitor various performance measures of an enterprise by extending supply chain management using financial management considerations, said method being performed on a computer and comprising the steps of: | Eder teaches the development and use of a computer system that extends supply chain management using financial management considerations (see Eder, abstract and FIG. 1). |
| selecting at least one activity or solution related to supply chain management for consideration using a computer resource; determining whether the selected at least one activity or solution is affected by financial management information, and if so, then integrating the affecting financial information with information related to the selected at least one activity or solution using a computer resource; | Eder teaches the selection of one supply chain management activity (purchasing aka procurement), integrates the financial management information with the information related to procurement and determines the effect on the activity that is affected by said information (see Eder, Column 1 through Column 3 and FIG. 3). |
| developing a process to generate a strategic or operational business plan that provides a solution for the selected at least one activity or solution related to supply chain management using a computer resource; determining whether the process is affected by financial management objectives, and if so, then integrating the affecting financial | Eder teaches a process to generate an operational business plan (a set of requisitions) that provides a solution for the selected at least one activity or solution related to supply chain management using a computer resource and integrates financial management objectives in determining the optimal solution (see Eder, |

| | |
|---|--|
| management objectives with objectives related to the process using a computer resource; | Column 68, line 1 through line 14). |
| determining whether the process will benefit from utilizing financial management techniques, and if so, then employing financial management techniques benefitting the process using a computer resource; selecting the financial management techniques from the group of value at risk techniques, option valuation analytics, and portfolio management techniques using computer resources; and performing the process using information, objectives, risk management objectives, and techniques associated with the at least one selected activity or solution including information, objectives, risk management objectives integrated in the determining steps, and using financial management techniques identified as beneficial to the process using a computer resource. | Modern portfolio theory, option analytics and VaR (see Garman) are all well known to those of average skill in the art. Combining them with the Eder teachings would be obvious except for the fact that the use of portfolio theory techniques teaches away from the need for: analyzing the value at risk of the supply chain and/or the consideration option analytics. Also, as noted elsewhere in more detail, a source for the values that would be the basis for all three financial analyses was not identified in the 6,671,673 specification. It is well known to those of average skill in the art that the difficulty in obtaining the required value information is one of reasons why VaR is often not used for corporate financial analysis (see Beyond Value at Risk, page 239). |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 09/534,715 was apparently not considered. As a result, a large, well known company received a patent for an invention that does not appear to be novel.

6) U.S. Patent 6,088,678 (hereinafter, Shannon) is well known to those of average skill in the art. Shannon describes a computer-implemented process simulation tool that relies on a software engine that uses historical data stored in data matrices to calculate the resources (time and money) required to complete a project and the risks associated with completing said project. U.S. Patent 6,233,600 (hereinafter, Salas) is also well known to those of average skill in the arts. Salas describes a system and method for providing a collaborative work environment that is useful for a number of activities including managing a project.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Shannon or Salas to be relevant to applications filed on behalf of Accenture (11/436,978), IBM (09/660,852 and 10/194,698), and Sprint (11/467,226) that rely on using historical data to manage projects by completing a variety of activities including forecasting project costs, monitoring time requirements and/or managing risk. The applications matured into U.S. Patents 7,318,038 (IBM), 7,676,490 (Sprint), 7,769,684 (Accenture) and 7,788,118 (IBM). A table containing a representative claim and the well known prior art (Shannon and Salas) that was apparently not considered is shown below.

| Claim map 7,584,165, Salas and Shannon | |
|--|--|
| A computer implemented method for managing a project, comprising the steps of: | Shannon and Salas both describe a computer implemented methods for managing a project (see Shannon and |

| | |
|--|---|
| | Salas, abstracts) |
| building on said computer a project management data model having entities and relationships described by text and graphical data; entering said project management data model in a relational database residing on said computer; | Salas describes a collaborative work environment that uses text and graphical indicators for project management (see Salas, C6, L14 – 20), Salas teaches that the project data may be stored in a relational database (see Salas, C3, L24 – 26), |
| building on said computer a project management tool for a project for production of a product or providing services, | Shannon describes a computer based project management tool for a project for production of a product or service (see Shannon, abstract) |
| having web pages from said text and graphical data; generating on said computer hyperlinks in said web pages of said tool based on said relationships in said relational database; | Salas teaches creating and displaying web pages representing a project (see Salas, C4, L55 – 61) and that users may utilize hyperlinks within the work environment (see Salas C6, L40 – 44) |
| using said tool on said computer to manage said project. | Salas and Shannon both describe using their inventions to manage a project (see Shannon and Salas, abstracts) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 09/660,852, 10/194,698, 11/467,226 and 11/436,978 was apparently not considered. As a result, three large companies received a total of four (4) patents for inventions that do not appear to be novel.

7) Managing Credit Risk (hereinafter, Caouette) is well known to those of average skill in the art. Caouette, which was published in 1998 notes that *“When a loan was made in the past, the associated credit risk remained on the lender’s balance sheet until the debt was repaid or written off. Today, the loan and the risk are just as likely to be resold and/or reconfigured for incorporation into a structured financing that serves as an intermediary between the saving and borrowing sectors.”* The use of curves to analyze prices has also been well known to those of average skill in the art for over one hundred years (see items 19 and 21 in Section A of Attachment B for details).

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider the well known history of price curves or Caouette’s description of the routine creation and use of credit risk transfer products to be relevant to an application (09/894,851) filed on behalf of Creditex. The application discusses an invention for: analyzing market capacity using apparently unspecified methods and using templates in an apparently unspecified manner to create credit risk transfer products for markets with capacity. The credit risk transfer products are then priced by using unspecified algorithms to complete apparently unspecified analyses of a plurality of price/demand curves. The application matured into U.S. Patent 7,333,950 (hereinafter, Shidler). Please note: Shidler is also listed in the next section of this Attachment because the specification does not appear to provide the information that would allow someone of average skill to make and/or use step (c) or step (d) of the invention. A table containing a representative claim and the well known prior art (Caouette) that was apparently not considered is shown below.

| Claim map for 7,333,950 and Caouette | |
|---------------------------------------|--|
| 1. A computerized system for creating | Caouette teaches the creation of synthetic |

| | |
|--|--|
| synthetic credit products comprising: | credit products |
| (a) at least one processor; (b) at least one database coupled to the processor; | A well known computer system connected to a well known database. |
| (c) a Capacity Creation module, coupled to the at least one processor and the at least one database, for determining the capacity of a defined financial market that includes at least one entity to absorb defined synthetic credit products at a minimum level of default risk, wherein the synthetic credit products include credit default swaps for structuring and pricing of credit-rating specific credit indexes; and | Caouette teaches that because of pressures from competitors and regulators, the emergence of dynamic trading markets for loans, growing loan volume and the pursuit of internal objectives for return on equity banks are generally willing to consider shifting their credit exposure through transactions with counterparties - aka synthetic credit products (see Caouette, paragraph 2, page 14) |
| (d) a Product Creation module, coupled to the at least one processor and the at least one database, for creating the synthetic credit products including a Product Creation engine for creating the synthetic credit products matched to debt obligations of qualified reference entities based upon internal templates in accordance with the capacity determined by the Capacity Creation module. | Caouette teaches that creating credit risk products that are matched to debt obligations of qualified reference entities was a routine occurrence several years before Shidler was filed (see Caouette, paragraph 3, page 94) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 09/894,851 was apparently not even considered. As a result, a large company received a patent for an invention that does not appear to be novel.

8) U.S. Patent 6,301,584 (hereinafter, Ranger) is well known to those of average skill in the art. Ranger describes an invention that integrates data from disparate sources, configures it in accordance with a model and presents views of the data using HTML, XML or VRML. U.S. Patent 6,332,163 (hereinafter, Bowman Amuah) is similarly well known to those of average skill in the art. Among other things, Bowman Amuah teaches the retrieval, manipulation and display of data in accordance with a variety of formats including XML, SGML and SMIL.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider either Ranger or Bowman Amuah to be relevant to an application (09/573,419) filed on behalf of E Numerate Solutions that describes an invention for automatically manipulating and graphically displaying numerical data contained in HTML or XML documents. It does this manipulation by dynamically combining data from a source database with document format information in a special data viewer. The application matured into U.S. Patent 7,249,328 (hereinafter, Davis). A table containing a representative claim and the well known prior art that was apparently not considered is shown below.

| Claim map for 7,249,328, 6,301,584 and 6,332,163 | |
|--|--|
| 1. A method in a data processing system comprising the steps of: | |
| displaying a hierarchical description | Ranger teaches an invention where: the |

| | |
|--|--|
| characterizing a parent line item and a description characterizing each of a plurality of associated children line items, the parent line item and plurality of children line items each including a series of numerical values; | memory stores a number of classes.... The classes include at least one dependent class that is hierarchically linked to at least one other class and contains additional property definitions specifying additional property values (see Ranger, C2, L25 – 35) |
| displaying an icon associated with each child line item representing a mathematical dependency relationship between each child line item and the parent line item; | Bowman Amuah teaches an invention where animated icons can be created to improve client side performance (see Bowman Amuah, C15, L33) |
| providing metadata for each numerical value and using the metadata to process the numerical values when displaying a selected line item; and | Bowman Amuah teaches an invention where systems are equipped with logic for interpreting the metadata of information received (see Bowman Amuah, C236, L15 – 18) |
| storing the processed numerical value. | Bowman Amuah teaches an invention where translated data is stored in a relational database (see Bowman Amuah, C211, L14 – 16) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 09/573,419 was apparently not even considered. As a result, a large company received a patent for an invention that does not appear to be novel.

9) U.S. Patent 6,411,936 (hereinafter, Sanders) is well known to those of average skill in the art. Sanders describes an invention that uses planning loop structures to identify value enhancements for an enterprise. In particular, Sanders describes identifying value enhancements for customers that meet certain criteria (see claims 19, 23 and 25). U.S. Patent 5,615,109 is also well known to those of average skill in the art and it teaches the optimization of profit.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Sanders or U.S. Patent 5,615,109 to be relevant to an application (10/461,499) filed on behalf of J.P. Morgan Chase Bank that describes an invention for identifying a list of potential marketing offers that meet certain criteria and selecting offer(s) from the list that optimizes profitability. The application matured into U.S. Patent 7,606,727. Please note: Sanders is also listed in the next section of this Attachment because the specification does not appear to provide information that would allow someone of average skill to make and/or use all of the claimed invention. A table containing a representative claim and the well known prior art that was apparently not considered is shown below.

| Claim map for 7,606,727, 6,411,936 and 5,615,109 | |
|--|---|
| 1. A computer-implemented method for identifying optimal marketing offers using a computer processor, the method comprising: | |
| collecting and analyzing information associated with a plurality of potential marketing offers; | Sanders teaches the use of planning loop structures to collect information about a plurality of things including higher value |

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| | added products and customers (see Sanders, FIG. 13, C16, L8 - 21) |
| identifying, with the computer processor, a plurality of marketing offers, from the plurality of potential marketing offers, that are eligible for inclusion in a marketing campaign, based on a plurality of predetermined criteria and the collected information, where the plurality of potential marketing offers are evaluated for eligibility on a household level, a prospect level and an offer level; | Sanders teaches tracking and determining a potential for movement in each of product and services mix, pricing, gross margins and customer asset values (see Sanders, C16, L8 – 21). Sanders also teaches providing customized solutions for at least one of specific target customer accounts, specific target supplier accounts, market segments by type of account, and market segments by type of offering (see Sanders, claim 19 and claim 25). |
| calculating a measure of profitability and response rate for each of the identified eligible marketing offers, the measure of response rate for each of the eligible marketing offers comprising a net response rate (NRR) calculated based on an associated time-degradation factor; and | Sanders calculates a measure of profitability for marketing offers (see Sanders, FIG. 7, numbers 701 and 731 and claim 13) and the responses received from marketing activities (see Sanders, FIG. 7, numbers 728, 729 and 730, C11, L44 – C12, L27) |
| identifying at least one optimal marketing offer from the eligible marketing offers based at least in part on the measure of profitability and response rate for each of the eligible marketing offers. | Patent 5,615,109 teaches the optimization of profit based on forecast levels of profitability (see 5,615,109, C67 L12 – 39) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 10/461,499 was apparently not considered. As a result, a large company received a patent for an invention that does not appear to be novel.

10) U.S. Patent 5,812,988 (hereinafter, Sandretto) is well known to those of average skill in the art. Sandretto describes an invention that combines asset cash flow forecasts and financial statement forecasts for assets with known cash flows with pre-determined risk return models in iterative loops to estimate actual asset values in a world where assets are completely independent and “efficiently priced”. In particular, this invention relates to an iterative process to estimate a discount rate (and risk) for each of two or more assets in a portfolio with a known value. U.S. Patent 5,361,201 (hereinafter, Jost) is also well known to those of average skill in the art. Jost describes an invention that uses neural network models and error models developed from properties with known values to estimate values for new, unknown properties in the same neighborhoods and identify the property characteristics that affect said estimated values.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Sandretto or Jost to be relevant to an application (09/737,639) filed on behalf of GE Capital that describes an invention for finding value and reducing risk by evaluating large groups of assets on an individual basis using an iterative process that includes asset segmentation based on estimated asset discount rates and their similarity to known assets. The application matured into U.S. Patent 7,028,005 (hereinafter, Messmer). A table containing a representative claim and the well known prior art (Sandretto and Jost) that was apparently not considered is shown below.

| Claim map for 7,028,005, 5,812,988 and 5,361,201 | |
|--|--|
| A computer implemented method for finding value and reducing risk in purchasing portfolios of assets using a computer coupled to a database, said method comprising the steps of: | Sandretto teaches the identification of value and risk in a portfolio of assets using a computer coupled to a database (see Sandretto, abstract and FIG. 1A) |
| calculating an initial value of each asset included within a portfolio of assets; and | Sandretto teaches the calculation of an initial value for each asset in a portfolio of assets (see Sandretto, C10, L1 – 61) |
| recalculating the value of each asset included within the portfolio, the recalculation is performed using the computer to perform the steps of: fully underwriting each asset included within a first portion of the portfolio to <u>produce a value of each asset included within the first portion of the portfolio, wherein underwriting includes analyzing an asset in accordance with predetermined criteria, and determining a current purchase price</u> for buying the asset and a confidence factor associated with the determined purchase price based on the analysis, | Sandretto teaches that <u>the values for each asset in a portfolio are re-calculated using particular asset-specific variables that are determined by reference to one of several predetermined asset models</u> , the iterative calculations continue until the calculated asset prices are within an acceptable range of accuracy (see Sandretto, C10, L61 – C11, L55) |
| underwriting a sample of assets included within a second portion of the portfolio to calculate a value of each asset included within the second portion of the portfolio based on the underwritten sample assets, each sample asset having descriptive attributes common to at least one non-sample asset included within the second portion such that each sample asset represents at least one non-sample asset included within the second portion, and | Jost teaches the use of a model derived from a plurality of properties with known values which corresponds to the sample of properties in second portion of portfolio to value unknown properties which corresponds to valuing the remaining properties in second portion of portfolio (see Jost, claim 1, C6, L3 - 30). |
| statistically inferring a value of each asset included within a third portion of the portfolio using an iterative process including grouping the assets included within the third portion of the portfolio into clusters based on underwriting values and variances of the first and second portions of the portfolio. | Jost teaches the use of a model derived from a plurality of properties with known values (first and second portions of portfolio) to value unknown properties (third portion of portfolio). Please see Jost, claim 1 and C6, L3 - 30. |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 09/737,639 was apparently not considered. As a result, a large company received a patent for an invention that does not appear to be novel.

11) U.S. Patent 4,989,141 (hereinafter, Lyons) is well known to those of average skill in the art. Lyons describes an invention that collects, organizes, manages and consolidates data

and provides user defined capabilities for creating financial and corporate reports with the consolidated data. In particular, the Lyons invention provides each user with the ability to design custom reports by extracting specific data from the consolidated data.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Lyons to be relevant to an application (10/050,273) filed on behalf of Convergys that describes a database conversion engine comprising a method and system to convert business information residing on one system to another system. The application matured into U.S. Patent 6,996,589. A table containing a representative claim and the well known prior art (Lyons) that was apparently not considered is shown below.

| Claim map for 6,996,589 and 4,989,141 | |
|--|--|
| 1. A computer system for migrating a source database wherein a specific type of source database is selected from a relational database, an object-oriented database, or a network database, to a target database comprising: | Lyons teaches migrating a source database wherein a specific type of source database is selected from a relational database, an object-oriented database, or a network database, to a target database (see Lyons, C21, L25 – L60) |
| a set of mapping instructions; a target schema specification; and a generically coded database conversion engine wherein the database conversion engine is coded to perform conversions independent of the specific type of source database and the specific type of target database associated with a conversion; wherein: | Lyons teaches a set of mapping instructions, a target specification and database conversion wherein the database conversion is coded to perform conversions independent of the specific type of source database (see Lyons, abstract, C2, L46 – 50 and C21, L25 – L60) |
| data in the source database is sent to the database conversion engine; the target schema specification defines the target database; the set of mapping instructions defines at least one translation instruction for the translation of the source data from the source database to the target database; the database conversion engine receives the source data, the set of mapping instructions and the target schema specification; | Lyons teaches that data in the source database is sent to the database conversion engine; the target specification defines the target database; the set of mapping instructions defines at least one translation instruction for the translation of the source data from the source database to the target database; the database conversion engine receives the source data, the set of mapping instructions and the target specification (see Lyons, abstract, C4, L43 – 51) |
| the database conversion engine parses the set of mapping instructions and the target schema specification; the database conversion engine performs the set of mapping instructions on the source data; | Lyons teaches that database conversion performs the set of mapping instructions on the source data (see Lyons, abstract, C4, L43 – 51); |

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| the database conversion engine uploads a resulting set of data into the target database in accordance with the target schema specification; and the database conversion engine validates the source data and the resulting set of data in accordance with the target schema specification. | Lyons teaches providing access to the subset of data through an interface module and validates the data (see Lyons C6, L40 |
|---|--|

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 09/923,646 was apparently not considered. As a result, a large, well known company received a patent for an invention that does not appear to be novel.

12) The use of financial forecasts and discounted cash flow calculations to value investments is well known to those of average skill in the art. Following the stock market crash of 1929, discounted cash flow analysis gained popularity as a valuation method. Irving Fisher in his 1930 book The Theory of Interest and John Burr Williams's 1938 text The Theory of Investment Value first formally expressed the discounted cash flow method in modern economic terms. The Capital Asset Pricing Model and the related Efficient Market Hypothesis (aka Modern Portfolio Theory) which teach mean-variance portfolio optimization are approximately 60 years old and are well known to those of average skill in the art. Published Patent Application 2003/0208427 (hereinafter, Peters) is also well known to those of average skill in the art. Peters describes an invention that assesses a client's current portfolio holdings in order to develop an investment risk profile, compares investment risk classifications based upon portfolio holdings, recommends specific portfolio changes based on asset classes to create an optimized portfolio for the client's investment risk profile. In particular, Peters describes the development of an efficient frontier coupled with a specific portfolio selection that recognizes the investors risk preferences. Sandretto (discussed under number 10 of the instant attachment section) is also well known to those of average skill in the art.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners at the U.S.P.T.O. did not consider the well known history of discounted cash flow, modern portfolio theory, Sandretto or Peters to be relevant to applications (09/776,379) and (10/892,611) that describe inventions that calculate and present fair value estimates for assets based on: asset related financial forecasts, presently valued asset cash flows and valuation parameters aligned with an investor profile. The investor profile comprises one or more of risk premium preferences and tax treatment preferences (see claim 9, 7,672,889). The applications matured into U.S. Patents 7,536,332 and 7,672,889. Further evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners at the U.S.P.T.O. did not consider Peters to be relevant to an application (09/930,786) filed on behalf of Accenture that supports the creation of an optimized portfolio for the client's investment risk profile. The application matured into U.S. Patent 7,831,494. A table containing a representative claim and the well known prior art (Fisher, Williams, Sandretto and Peters) that was apparently not considered is shown below.

| Claim map for 7,672,889 and well known prior art | |
|--|--|
| A computer-implemented method, comprising: | |

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|---|---|
| (a) determining, by a computing device, an estimated present fair value of an asset by consolidating selected (i) historical performance data regarding the asset, (ii) forecast information regarding the asset, and (iii) valuation information provided by one or more investment information service providers, said valuation information regarding the asset, all according to: (x) fair value estimation processes that utilize one or more of financial information concerning the asset, financial forecasts concerning the asset, presently valued cash flows concerning the asset, and | Irving Fisher in his 1930 book <u>The Theory of Interest</u> and John Burr Williams's 1938 text <u>The Theory of Investment Value</u> first formally expressed the discounted cash flow method which relies on forecast information regarding cash flows for valuing assets (source: Wikipedia) |
| (y) valuation parameters aligned with an investor profile; and | Peters teaches the development of an investment risk profile for individual investors and the use of said profile in selecting investments (see Peters, FIG. 5, FIG. 14, paragraphs 20 - 22) |
| (b) presenting the estimated present fair value in a format reflecting an over/under valuation of the asset as compared to its price. | Sandretto teaches the evaluation of the discount rate used to calculate the present value of an asset to determine if the asset is over/under valued or if the discount rate needs to be revised (see Sandretto, C18, L27 - 35) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 09/776,379, 09/930,786 and 10/892,611 was apparently not considered. As a result, three patents were issued for inventions that do not appear to be novel.

13) U.S. Patent 6,012,053 (hereinafter, Pant) is well known to those of average skill in the art. Pant describes a mechanism through which results from a search query are ranked according to user specified relevance factors to allow the user to control how the search results are presented. In particular, the Pant invention provides the user with the ability to assign weights to different attributes of the search results, generate a score for each item in the results using said weights and then present results ranked according to the score.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Pant to be relevant to two applications filed on behalf of JP Morgan Chase (09/552,879 and 11/686,494) for inventions that allow the user to enter a set of criteria of their choice with desired ranges and a weighting factor to be applied to the criteria. The user criteria and weightings are used to define a match score that controls how the results are displayed. Additional evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Pant to be relevant to an application (11/589,267) for an invention that allows for user control of search ranking and search presentation. In particular, the invention allows for user controllable relevance rankings. The applications matured into U.S. Patents 7,212,996 (JP Morgan Chase), 7,433,840 (JP Morgan Chase) and 7,617,193. A table containing a

representative claim and the well known prior art (Pant) that was apparently not considered is shown below.

| Claim map for 7,212,996 and 6,012,053 | |
|--|--|
| 1. A system having a computer memory and a processor for multivariable comparison of financial information, comprising: | |
| a first processor performing instructions for a client interface for a user to receive weightable search information, the weightable search information comprising <u>user-selected quantitative search criteria and user-selected weighting criteria</u> , the weighting criteria reflecting user-defined levels of importance for one or more of the quantitative search criteria; and | Pant teaches that results from a search query are ranked according to <u>user-specified relevance factors</u> (corresponds to search criteria) <u>and weights</u> (see Pant, abstract, FIG. 1 and C1, L53 – 61) |
| a second processor performing through a search interface, communicating with the client interface, the search interface interrogates at least one network-enabled information source according to the weightable search information to generate search results; | Pant teaches the use of a server computer and the process performed by the server computer to receive and process a query and relevance factors from a client computer in order to produce relevancy ranked search results (see Pant, FIG. 3, C2, L47 - 54) |
| wherein the financial information comprises a plurality of investment funds, each having multiple quantitative investment fund variables associated therewith; | Pant teaches an invention that can be applied to any type of information (see Pant, C1, L5 – 10) |
| the computer memory for storing the search results; | Well known computer memory |
| the search interface compares the quantitative investment fund variables with the user-selected quantitative search criteria and the user-selected weighting criteria to generate search results comprising: | Pant teaches a relevance determination module having a first input for receiving a set of search results from a query indicating items in the collection matching the query, a second input for receiving an indication of relevance factors specified by a user, and a third input for receiving information about the items in the set of search results to which relevance factors may be applied. This module has an output for providing an indication of a score indicative of relevance for each of the items in the set of search results (see Pant, C2, L29 – 38) |
| a first set of investment funds that do not satisfy all of the user-selected quantitative search criteria, but which satisfy the overall user-defined criteria based on the combination of the user-selected weighting criteria and the user-selected quantitative criteria, wherein the search results indicate the level the search results match the | Pant teaches a sorting module that has an input which receives the score associated with each item and an indication of the set of search results, and an output providing to the user an indication of the items in the set of search results in an order ranked according to the relevance score of each item which is an indication of the level |

| | |
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| weighted criteria; | which the search results match the weighted criteria (see Pant, C2, L38 – 43) |
| the search interface performs subsequent searches within stored results of a prior search to limit search results when existing search criteria values are revised; | Obvious repeat of process described above for revised criteria |
| the search interface performs other subsequent searches to interrogate at least one network-enabled information source to expand search results when criteria are added; and | Obvious repeat of process described above for new criteria |
| the search interface recalculates and represents the result indicators which indicate the level the search results match the weighted criteria. | Obvious repeat of process described above for new criteria |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 09/552,879, 11/589,267 and 11/686,494 was apparently not considered. As a result, three patents were issued for inventions that do not appear to be novel.

14) U.S. Patent 7,630,986 (hereinafter, Herz) is well known to those of average skill in the art. Herz describes a system for securely exchanging information and messages about buyer characteristics and preferences with sellers of products and services. The Herz specification also describes the use of collaborative filtering to combine the buyer characteristics and preferences with information about previous buyers to identify products and services that are likely to be of interest to buyers. As is well known in the art, collaborative filtering identifies items of interest to buyers by assuming that people with similar characteristics and/or preferences will want similar things.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that examiners at the U.S.P.T.O. apparently did not consider Herz to be relevant to an application filed on behalf of Aggregate Knowledge (11/369,562) that relies on collaborative filtering to identify items of interest. The applications matured into U.S. Patent 7,788,358. A table containing a representative claim and the well known prior art (Herz) that was apparently not considered is shown below.

| Claim map for 7,788,358 and Herz | |
|--|--|
| A system for generating recommendations, comprising: a processor to execute modules, including: a communications module to receive a message requesting recommendations via a network, | Herz describes the implementation of a system for exchanging information and messages between two or more parties (see Herz, abstract) |
| the message specifying a label identifying an item, a predicate describing a type of the item and at least one constraint on one or more items to be returned as recommendations; | Herz teaches the use of queries to identify and return items that satisfy at least one constraint (see Herz, C77, L26 – 27) |

| | |
|--|--|
| a canonicalization module to generate canonicalized representations of relationships by associating each component of the relationship data with a unique identifier (ID), the relationship data including a label component identifying an item, a predicate describing a type of the item and an intent describing an action that established the relationship; a relationship storage module for storing the canonicalized representations in a memory; | Herz teaches the use of: unique identifiers for every agent (see Herz, C9, L1 – 5), unique ids for each vendor (see Herz, C49, L23), unique ids for message packages (see Herz, C 74, L31), unique identifiers for each user (see Herz, C57, L3 – 5) and the development, storage and use of data objects that represent an association list that identifies the relationship between data field names and values (see Herz, C18, L27 – 30). |
| and a recommendation generation module for generating recommendations based on the canonicalized representations of the relationships stored in the memory by performing collaborative filtering to identify a set of items related to the items identified in the message requesting recommendations and satisfying the at least one constraint. | Herz describes the implementation of a collaborative filtering based recommendation system (see Herz, C1, L55 – 65 and C83, L45 - 67) and that recommendations can be restricted to those that satisfy at least one constraint (see Herz, C77, L26 – 27) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 11/369,562 was apparently not considered. As a result, a large, well known company received a patent for an invention that does not appear to be novel.

15) U.S. Patent 4,414,629 (hereinafter, Waite) is well known to those of average skill in the art. Waite describes a method for structuring a field of data (i.e. battery failure data, chemical toxicity data, etc.) about a plurality of known objects so that the structured data can be used to support one or more predictions about a new, unknown object in the field (i.e. a new chemical, a new battery, etc.). Waite also teaches that frequency distribution data can be used to identify causal actions or events in a sequence of actions or events. U.S. Patent 6,885,975 (hereinafter, Srinivasan) is also well known to those of average skill in the art. Srinivasan teaches a system for managing processes.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Waite or Srinivasan to be relevant to an application filed on behalf of Parasoft (11/701,806) that uses data about a sequence of events to produce predictions for use in process management. The application matured into U.S. Patent 7,680,752. A table containing a representative claim and the well known prior art (Waite) that was apparently not considered is shown below.

| Claim map for 7,680,752, Waite and Srinivasan | |
|---|---|
| 10. A process management system comprising: | Srinivasan teaches a system for managing processes (see Srinivasan, abstract) |
| an execution engine to execute a process, the execution engine being configured to provide a process history including an audit trail, a process state and a process description; | Srinivasan teaches a system for executing a process, the system incorporates a process history, a process description and determines a process state (see Srinivasan, abstract; FIG. 4; C4, L49; C6, L5; and C7, L42) |
| a prediction module in communication with | Waite teaches the receipt of data in a |

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| the execution engine, the prediction module being configured to provide a process prediction to the execution engine based on the process history, the process state and the process description; | computer (coded data) containing descriptions, event histories and target values for use in developing predictions (see Waite C3, L6 – C4, L34; and C25, L45 - 50) |
| and a learning module in communication with the prediction module to process one or more of the process history and the process description and generate a learning model for the prediction module, wherein the learning model includes a decision tree for predicting message events or a process state, where nodes of the decision tree involve preceding message events or values within the process state. | Waite teaches the analyses of sequences of events and data values for a field and that treeing algorithms may be used to analyze said data in order to make predictions (see Waite, abstract; C3, L48; C18, L63 – C19, L6; C19, L 68; and C25, L45 - 50) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 11/701,806 was apparently not considered. As a result, a large company received a patent for inventions that do not appear to be novel.

16) U.S. Patent Application 2003/0182394 (hereinafter, Ryngler) is well known to those of average skill in the art. Ryngler describes a context engine that reviews information about an entity obtained from sensors, interpreters and databases. Ryngler analyzes said information with the context engine to determines the current state (tired, bored, etc.) of a user and identifies one or more of three types of relationships: relationship of an entity to state (Tim (entity) is bored (state)), relationship of an entity to another entity (Tim (entity) is in (relationship) New York (entity)), and/or the relationship of a state to a relationship between two entities (Tim (entity) is tired (state) of being in (relationship) New York (entity)). The information about entities, states and/or relationships developed by the context engine is provided to context aware applications. Ryngler also enables context aware applications by supporting the use of predefined combinations of entities, states and relationships called "context packs".

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Ryngler to be relevant to an application filed on behalf of Accenture (10/754,984) that uses entity state information as context to be transmitted to applications. Further evidence can be found by noting that Examiners at the U.S.P.T.O. did not consider Ryngler to be relevant to an application filed on behalf of Nokia (10/817,401) that uses a context engine to review sensor information and manage the exchange of context related information with a user. The applications matured into U.S. Patents 7,603,112 (Nokia) and 7,716,333 (Accenture). It is also worth noting at this point that there are a large number of other issued patents that appear to be invalid for failing to properly consider Ryngler. If the overly broad interpretation of Ryngler that is being used by the Examiner for Asset Reliance application 12/114,784 was uniformly adopted, then it appears that over 3,000 patents would need to be re-examined. A table containing a representative claim and the well known prior art (Ryngler) that was apparently not considered is shown below.

| Claim map for 7,716,133 and Ryngler | |
|---|---|
| 1. A service control system for providing intention-based, context-sensitive services | Ryngler teaches a method for providing context sensitive services to mobile users |

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| to mobile users, comprising: a database; | (see Ryngler, FIG. 7, paragraphs 5 - 6, paragraphs 43 - 44) |
| a profiler module coupled to the database, wherein the profiler module: collects a state of a user along with profile information including identity, location, available services per location, devices per location, and security per location, evaluates inputs related to the profile information to create an evaluation, updates the profile information to include the evaluation, updates attributes in the profile information for a type of service including telephony, messaging, and calendaring, updates attributes in the profile information for a selected service class related to an amount of service, and communicates the updated profile information to the database for storage therein; | Ryngler teaches the collection of a user's state and profile information including identity, location, available services, devices and evaluates the information, updates attributes based on the evaluation and stores the results (see Ryngler, Appendix A, pages 19 – 22), |
| an application module coupled to the database and including a plurality of application program interfaces for interfacing with a plurality of applications, the application program interfaces including telephony, messaging, and calendaring interfaces, wherein the application module is adapted for allocating application resources to the applications based on the updated profile information stored in the database; | Ryngler teaches an application layer coupled to the database and including a plurality of application program interfaces for interfacing with a plurality of applications, including telephony, messaging, and calendaring (see Ryngler, FIG. 10, FIG. 11, Paragraphs 207 – 235, Appendix A, pages 19 – 22) |
| a network resource module coupled to the database and a plurality of network routers, the network resource module adapted for configuring the network routers based on the updated profile information stored in the database and the application resources allocated to the applications; | Ryngler teaches a network resource module coupled to the database and a plurality of network routers (see Ryngler, Appendix A, pages 19 – 22 – particularly page 20) |
| a presentation module coupled to the database, the presentation module adapted for tailoring an output of the applications based on the updated profile information stored in the database and user requests for content and views; and | Ryngler teaches a presentation module coupled to the database, the presentation module adapted for tailoring an output of the applications based on the updated profile information stored in the database and user requests for content and views (see Ryngler Appendix A, pages 19 – 22 – particularly page 19 – presentational and informational) |
| a policy server coupled to the database, the application module, the network resource module, and the presentation module for controlling the operation of the telephony, | Ryngler teaches a policy application (privacy policy) coupled to the database, the application module, the network resource module, and the presentation |

| | |
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| messaging, and calendaring services thereof in accordance with policies identified utilizing the selected service class and updated profile information stored in the database, the policy server including a service logic execution program that executes a plurality of policies associated with each of the profiler module, the application module, the network resource module, and the presentation module. | module for controlling the operation of the telephony, messaging, and calendaring services thereof in accordance with policies identified utilizing the selected service class and updated profile information stored in the database (see Ryngler, paragraph 205) |
|--|--|

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 10/754,984 and 10/817,401 was apparently not considered. As a result, two large, well known companies received patents for inventions that do not appear to be novel.

17) U.S. Patent 6,278,981 (hereinafter, Dembo) is well known to those of average skill in the art. Dembo describes a computer-implemented process for creating compressed portfolios that replicate the performance of the collection of instruments in a large and/or complex portfolio. In particular, a compressed portfolio is a portfolio that contains a relatively small number of relatively simple financial instruments that are sensitive to changes in the same risk factors contained in the bigger portfolio. In simulations the smaller portfolio's aggregate behavior is almost identical to the large and/or complex portfolio. U.S. Patent 6,330,546 (hereinafter, Gopinathan) is well known in the art. Gopinathan teaches the use of self trainable, non-linear statistical models to create risk scores. U.S. Patent 6,948,656 (hereinafter, Williams) is also well known in the art and teaches the use of risk factors to calculate risk scores. Caouette (described previously under number 7 of the instant attachment section) teaches the use of risk scores for evaluating risk associated with assets, companies and countries.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Dembo, Gopinathan, Williams or Caouette to be relevant to applications 11/439,771 and 11/440,191 that describe inventions for using risk factors to develop risk scores. The applications matured into U.S. Patents 7,747,494 and 7,752,125 that are assigned to Agilience. A table containing a representative claim and the well known prior art (Dembo, Gopinathan, Williams and Caouette) that was apparently not considered is shown below.

| Claim map for 7,747,494, Dembo, Gopinathan, Williams and Caouette | |
|--|--|
| 3. A graphical user interface on a computer system for assessing risk associated with a plurality of heterogeneous assets of a business enterprise | |
| a graphical tool to allow a user to select an asset from said plurality of heterogeneous assets on said computer system; | Dembo teaches a graphical interface that allows users to select assets for risk analysis and simulation from a portfolio of heterogeneous assets (see Dembo, C6, L62 – 67 and C9, L67) |
| a display unit that displays a plurality of real risk factors associated with the asset; said | Dembo teaches the automated identification of the risk factors for the |

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| display unit that displays a real risk score associated with the asset, the real risk score being a measure of risk associated with the asset; | assets in a portfolio (see Dembo, FIG. 3 C5, L13 – 40). Caouette and Gopinathan teach the use risk scores as measures of risk (see Caouette, pages 40, 115 and 139 and Gopinathan, claims 44 and 67) |
| an input area to allow a user to input a plurality of simulated risk factors for the asset using an input device of the computer system; and | Dembo teaches the use of an input device of a computer system to specify the key attributes for a risk simulation (see Dembo, C9, L 62 - 67 and C21, L18 – 20) |
| said display unit that displays a non-determinative simulated risk score associated with the asset, the simulated risk score being a simulated measure of risk associated with the asset if the selected asset were to be associated with the plurality of simulated risk factors. | Williams teaches the use of risk factors to determine risk scores (see Williams, claims 35 and 36). The use of simulated risk factors is an obvious implementation of a well known process for using risk factors to determine risk scores. |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 11/439,771 and 11/440,191 was apparently not considered. As a result, a large company received two patents for inventions that do not appear to be novel.

18) U.S. Patent application 2002/0120471 (hereinafter, Drazen) is well known to those of average skill in the art. Drazen teaches storing a plurality of different medical guidelines for different health conditions, and storing historical patient information data for a plurality of patients. Patient information is collected from users via a global network and evaluated to generate a patient-specific risk report and a patient treatment plan that includes patient-specific recommendations for reducing risk based upon the different medical guidelines.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Drazen to be relevant to an application filed on behalf of GE (10/017,652) that describes an invention for a medical support system and method for performing at least one medical support process relating to diagnosis and treatment of a medical condition and that includes or employs medical records relating to patients and medical support databases including medical guidelines for the diagnosis and treatment of a medical condition. The application matured into U.S. Patent 7,577,573. A table containing a representative claim and the well known prior art (Drazen) that was apparently not considered is shown below.

| Claim map for 7,577,573 and Drazen | |
|--|--|
| 1. A medical support system including a memory for storing at least one medical support process relating to diagnosis and treatment of a medical condition, a processor responsive to the medical support process and to user inputs for performing the medical support process, an input device for user inputs relating to the medical support process and an output device for displaying the results of the medical support process to | Drazen teaches a medical support system including a memory for storing at least one medical support process relating to diagnosis and treatment of a medical condition, a processor responsive to the medical support process and to user inputs for performing the medical support process, an input device for user inputs relating to the medical support process and an output device for displaying the |

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| a user, comprising: | results of the medical support process to a user (see Drazen, abstract, FIG. 1, FIG. 2, FIG. 4a, FIG. 4b, FIG. 4c, FIG. 5, paragraph 3 - 7, and paragraph 24), |
| at least one medical record relating to a patient; at least one medical support database including medical guidelines for the diagnosis and treatment of the medical condition; a bi-directional dialect translator for receiving and translating between preferred dialect medical terms entered by an individual user and corresponding equivalent but different standard medical terms employed in the support operations, conversely bi-directionally translating the standard medical terms employed by the support operations into the preferred dialect medical terms originally entered and used by the individual user for display to the user; and a medical support process including at least one process phase each process phase including one or more process operations; | Drazen teaches a system with at least one medical record relating to a patient; at least one medical support database including medical guidelines for the diagnosis and treatment of the medical condition; at least one process phase with each process phase including one or more process operations. Drazen also teaches a rules engines which can be used to provide translation of medical terms (see Drazen, abstract, FIG. 2, FIG. 4a, FIG. 4b, FIG. 4c, FIG. 5, paragraph 3 - 7, and paragraph 24), |
| each of the process operations of a process phase including: at least one process form providing an interface between a user and the process operations of the process phase, each process form including fields for passing user inputs to the process operations and for displaying the results of the process operations to the user; and | Drazen teaches process operations of a process phase including: at least one process form providing an interface between a user and the process operations of the process phase, each process form including fields for passing user inputs to the process operations and for displaying the results of the process operations to the user (see Drazen, FIG. 3 and FIG. 5 and paragraph 55), |
| at least one support process responsive to user inputs, the medical record and the guidelines for performing the process operations, wherein: the support processes execute an interactive dialogue between the medical support process and the user to provide guidance to the user in performing the medical support process according to the guidelines and dependent upon the user inputs and the medical record, | Drazen teaches at least one support process responsive to user inputs, the medical record and the guidelines for performing the process operations, wherein: the support processes execute a dialogue between the medical support process and the user to provide guidance to the user in performing the medical support process dependent upon the user inputs and the medical record by supporting queries (see Drazen, paragraph 55) |
| wherein the guidance provided to the user is capable of being overridden by the user and wherein the overridden guidelines are | Drazen teaches where the guidance provided to the user is capable of being overridden by the user and wherein the |

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| dynamically updated with a patient based guideline for the individual patient based on user input and the medical record for the individual patient. | overridden guidelines are dynamically updated with a patient based guideline for the individual patient based on user input and the medical record for the individual patient as the user (doctor) identifies the final treatment plan which is incorporated into the database and is free to override the recommendations based on medical guidelines (see FIG. 2, FIG. 8A, FIG. 8B). |
|--|--|

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 10/017,652 was apparently not considered. As a result, a large, well known company received a patent for an invention that does not appear to be novel.

19) Activity based costing is well known to those of average skill in the art. It was developed in the 1980's and popularized in the early 1990's (for example, see Balanced Scorecard by Robert Kaplan 1996). U.S. Patent 5,615,109 (hereinafter, Eder) is also well known to those of average skill in the art. Eder describes an invention that optimizes profit for a commercial enterprise. In particular, profit is optimized by selecting the purchasing requisitions that maximize profit while minimizing investment after a risk metric (two) is generated, availability and demand scenarios are created, composite forecasts are developed and purchase discount schedules are analyzed. Demand elasticity curves are also well known in the art (see number 22 in the instant attachment section for details).

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider demand elasticity curves, activity based costing and/or Eder relevant to applications for inventions that determine optimum prices for products by: modeling relationships between potential prices of the products and market demand for the products, using activity based costing to estimate costs for the products based upon market demand and then using the data from these analyses in a profit or revenue optimization analysis. The applications matured into U.S. Patent 7,092,918, 7,130,811, 7,240,019, 7,249,031, 7,249,032, 7,249,033, and 7,302,410. A table containing a representative claim and the well known prior art (Eder) that was apparently not considered is shown below.

| Claim map for 7,240,019 and 5,615,109 | |
|---|---|
| 1. An interface enabling a user to determine optimum prices of products for sale, comprising: | |
| a scenario/results processor, configured to enable the user to prescribe an optimization scenario, and configured to present the optimum prices to said user, wherein the optimum prices are determined by execution of said optimization scenario, wherein said optimum prices are determined based upon estimated product demand and calculated activity based costs, said scenario/results processor comprising: | Eder teaches a scenario/results processor configured to enable the end user to identify the optimal prices and quantities that should be purchased (see Eder FIG. 2, FIG. 3A, FIG. 3B, C72, L19 – 48). The claimed invention identifies the optimal prices and quantities that should be sold (requires only an obvious change to the objective function and well known demand elasticity curves) |

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| an input/output processor, configured to acquire data corresponding to said optimization scenario from the user, and configured to distribute optimization results to the user, wherein said data comprises activity based cost data corresponding to the products for sale, and wherein said input/output processor comprises: | Eder teaches an input/output processor, configured to acquire data corresponding to said optimization scenario from the user, and configured to distribute optimization results to the user (see Eder FIG. 2, FIG. 3A, FIG. 3B, C93, L7 – 17). Activity based costing data is well known in the art and could be used for the expense calculations. |
| a template controller, configured to provide first price optimization templates and second price optimization templates, wherein said price optimization templates are presented to said user to allow for prescription of said optimization scenario, and for distribution of said optimization results, and wherein said first price optimization templates comprise: | Eder teaches the use of displays that allow the user to specify optimization scenarios and review optimization results (see Eder FIG. 3A, FIG. 3B, abstract, C15, L35 - C16, 17) |
| a plurality of new scenario templates, configured to enable said user to prescribe scenario parameters corresponding to said optimization scenario, wherein said plurality of new scenario templates comprise: an at-large rules template, from specifying rules to govern determination of the optimum prices, said rules comprising: maximum allowable price swing for each of the products for sale; and maximum allowable for average price of each demand group within a plurality of demand groups; and a command interpreter; configured to extract commands from said first price optimization templates executed by said user, and configured to populate said second price optimization templates according to result data provided for presentation to said user; and | Eder teaches the use of displays to enable the user to prescribe optimization scenarios and distribute optimization results (see Eder FIG. 3A, FIG. 3B, abstract, C15, L35 - C16, 17), and As is well known in the art, the optimization models taught by Eder can be easily modified to incorporate the claimed constraints (see Eder, C28, L26 – 66) |
| a scenario controller, coupled to said input/output processor, configured to control acquisition of said data and the distribution of said optimization results in accordance with a price optimization procedure. | Eder teaches a system configured to control acquisition of data and the distribution of said price optimization results (see Eder FIG. 2, FIG. 3A, FIG. 3B, abstract, C15, L35 - C16, 17) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious patent applications filed by a large company was apparently not even considered. As a result, a large company received seven patents for inventions that do not appear to be novel.

20) The Acute Physiological And Comprehensive Health Evaluation (APACHE) test which was first developed in 1981 and steadily improved over the years is well known to those of average skill in the art. Cerner bought the main company selling APACHE systems and

introduced APACHE IV in 2004 for use in treatment management. Lyapunov analysis has similarly been well known to those of average skill in the art since the 1970's. Its use in mortality and health care analysis is well known. For example, Google recently listed 19,700 hits for combination of Lyapunov and health care. In 2001 Dr. Bruce Kehr filed an application (2003/0036683, hereinafter, Kehr) for a database that could be used by APACHE systems and other systems to support treatment protocol customization and by other applications to support mortality monitoring.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider the well known history of APACHE, the well known history of Lyapunov analysis and/or Kehr to be relevant to an application (10/988,170) filed on behalf of Cerner and an application (11/444,080) filed on behalf of a subsidiary of Phillips that each describe inventions that rely on the APACHE methodology to customize treatment protocols. In particular, the Cerner invention analyzes APACHE scores using Lyapunov algorithms to manage mortality treatment. Kehr also appears to be relevant to an application (11/276,497) filed on behalf of Convergys. The applications matured into U.S. Patents 7,258,667 (Cerner), 7,395,216 (VisiCU subsidiary of Philips) and 7,599,861 (Convergys). A table containing a representative claim and the well known prior art (Kehr) that was apparently not considered is shown below.

| Claim map for 7,395,216 and Kehr | |
|--|--|
| A system for determining a treatment plan for a patient comprising: | Kehr describes a system for determining a treatment plan for a patient. |
| a network; a datastore accessible to a remote command center via the network, wherein the datastore comprises assessment data elements indicative of medical conditions associated with geographically dispersed patients; | Kehr teaches a network; a database accessible to a command center via the network, wherein the database comprises assessment data elements indicative of medical conditions associated with a plurality of patients (see Kehr abstract, FIG. 1 and FIG. 3) |
| a decision support system at the remote command center, wherein the decision support system is connected to the network and comprises a software module, wherein the software module comprises instructions for: | Kehr teaches a decision support system at the command center, wherein the decision support system is connected to the network and comprises a software module, wherein the software module comprises instructions for: (see Kehr, paragraph 171) |
| continuously applying a predictive model to a first set of selected assessment data elements to produce current health measures for the patient; and utilizing the health measures to produce a treatment plan for the patient, wherein the treatment plan is continuously updated based on the current health measures; and | Kehr teaches continuously applying a predictive model to a first set of selected assessment data elements to produce current health measures for the patient; and utilizing the health measures to produce a treatment plan for the patient, wherein the treatment plan is continuously updated based on the current health measures; and (see Kehr, paragraph 228), |
| a rules generator connected to the network, wherein the rules generator comprises instructions for establishing a patient-specific rule for the patient consistent with the treatment plan for the patient; and | Kehr teaches establishing a plurality of patient-specific rules for the patient consistent with the treatment plan for the patient (see Kehr, paragraph 161), |

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| <p>a rules engine at the remote command center, wherein the rules engine is connected to the network and comprises instructions for:</p> <p>applying the patient-specific rule continuously to a second set of selected assessment data elements;</p> <p>determining in an automated fashion 24 hours per day 7 days per week whether the patient-specific rule for the patient has been contravened; and</p> <p>issuing an alert if the patient-specific rule for the patient has been contravened.</p> | <p>Kehr teaches a system for:</p> <p>applying the patient-specific rules continuously to a second set of selected assessment data elements;</p> <p>determining in an automated fashion 24 hours per day 7 days per week whether the patient-specific rule for the patient has been contravened; and</p> <p>issuing an alert if the patient-specific rule for the patient has been contravened (see Kehr, Figure 26, paragraphs 162 – 171)</p> |
| <p>2. The system of claim 1, wherein the predictive model is selected from the group consisting of an APACHE II algorithm; an APACHE III algorithm; a history of present illness (HPI) algorithm; a review of systems (ROS) algorithm; a past, family, and/or social history (PFSH) algorithm; a Sequential Organ Failure Assessment (SOFA) model, and a mortality prediction model (MPM) algorithm.</p> | <p>Kehr teaches wherein the predictive model is selected from the group consisting of an APACHE II algorithm; an APACHE III algorithm (see Kehr, paragraph 189)</p> |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 10/988,170, 11/276,497 and 11/444,080 were apparently not considered. As a result, three large, well known companies received patents for inventions that do not appear to be novel.

21) U.S. Patent 5,615,109 (hereinafter, Eder) is well known to those of average skill in the art. Eder describes an invention that optimizes profit for a commercial enterprise. In particular, profit is optimized by selecting the purchasing requisitions that maximize profit while minimizing investment after a risk metric (two) is generated, availability and demand scenarios are created, composite forecasts are developed and purchase discount schedules are analyzed.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that Examiners at the U.S.P.T.O. did not consider Eder to be relevant to application (09/877,292) filed on behalf of IBM that describes inventions for analyzing availability, demand and price scenarios and a risk metric to support optimal purchasing (aka procurement) risk management. The applications matured into U.S. Patents 7,246,080. A table containing a representative claim and the well known prior art (Eder) that was apparently not considered is shown below.

| Claim map for 7,246,080 and 5,615,109 | |
|--|--|
| A computer implemented method of managing supply chain risk, comprising: | |
| receiving product manufacturing information; | Eder teaches the receipt of product manufacturing information (see Eder, C38, L26) |

| | |
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| generating at least one risk distribution from the product manufacturing information, wherein the at least one risk distribution is along one or more of a quantity dimension, a time dimension, a space dimension and a quality dimension; | Eder teaches the generation of risk distributions on quantity dimensions, trend and variability, and a time dimension, obsolescence which are summarized in a TVO variable (see Eder, C17, L18 - 25) |
| receiving at least one market input parameter characterizing a market for the product; | Eder teaches the receipt of sales forecasts by item which characterize the market for a product (see Eder, C17, L6 – 11) |
| performing a market simulation on the at least one risk distribution using the at least one market input parameter to generate at least one modified risk distribution; and managing supply chain risk based on the at least one modified risk distribution. | Eder performs simulations based on market data to identify a modified risk distribution by varying the weightings of the TVO variable and the modification of requisitions and forecasts to manage supply chain risk based on the TVO weightings (see Eder, C26, L21 – 31) |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious application 09/877,292 was apparently not considered. As a result, a large, well known company received a patent for an invention that does not appear to be novel.

22) Price elasticity curves are well known to those of average skill in the art. The phrase "supply and demand" was used by Adam Smith in his 1776 book The Wealth of Nations, and David Ricardo titled one chapter of his 1817 work Principles of Political Economy and Taxation "On the Influence of Demand and Supply on Price". In his 1870 essay "On the Graphical Representation of Supply and Demand", Fleeming Jenkin published the first drawing of supply and demand curves including comparative statics from a shift of supply or demand volume and application to the labor market. The model was further developed and popularized by Alfred Marshall in the 1890 textbook Principles of Economics.

Evidence of an apparent lack of average skill in the relevant arts can be found by noting that the Examiners from the U.S.P.T.O. did not appear to consider any part the 200 years of prior art documenting the relationship between volume and price to be relevant to an application (10/279,182) filed on behalf of i2 technologies that describes a computer-implemented method of calculating price elasticity. It is also worth noting at this point that there are a number of other issued patents that appear to be invalid for failing to consider the well known history of price elasticity curves. The application matured into U.S. Patent 7,343,355. A table containing a representative claim and the well known prior art (Marshall) that was apparently not considered is shown below.

| Claim map for 7,343,355 and well known prior art | |
|--|---|
| 1. A computer-implemented method for calculating price elasticity, the method performed using one or more computer systems each comprising one or more processing units and one or more memory units, the method comprising: | A well known computer system for calculating price elasticity of demand (PED) as first taught by Alfred Marshall in 1890. |

| | |
|--|--|
| accessing a plurality of demand models; accessing demand data describing a plurality of items; evaluating the demand models in accordance with the demand data; selecting a demand model of the evaluated demand models in response to the evaluation; and calculating a price elasticity according to the selected demand model by: accessing a set of price elasticity values; for each price elasticity value, determining a probability of the price elasticity value given an event, the demand data describing the event; and determining the price elasticity value in accordance with the determined probabilities of the price elasticity value given the event; and | Alfred Marshall defined PED ("price elasticity of demand") in his book <i>Principles of Economics</i> , published in 1890. He described it thus: "And we may say generally:— the elasticity (or responsiveness) of demand in a market is great or small according as the amount demanded increases much or little for a given fall in price, and diminishes much or little for a given rise in price"[see III.IV.2.]. Alfred Marshall also described the calculation of the PED using demand data in his book (source: Wikipedia) |
| reporting the calculated price elasticity. | Simple presentation of results |

End result: Well known prior art that would normally be used by someone of average skill in the art to render obvious applications 10/462,546 was apparently not even considered. As a result, a patent was issued to a large, well known company for an invention that does not appear to be novel.

Section B. Specific examples related to an apparent lack of knowledge and/or understanding of well known principles of the relevant arts include:

- 1) The apparently improper allowance of patent applications from large, well known companies under section A of this attachment provides clear and convincing evidence that the U.S.P.T.O. personnel "examining" said patent applications appear to lack sufficient knowledge of the arts and/or understanding of well known principles of relevant arts to complete a patent examination that meets the statutory requirements for said examination;
- 2) The written description of patent 6,249,768 appears to have a number of deficiencies that were not identified by the Examiners. The apparent deficiencies include:
 - a. Data collection apparently depends largely on mental processes and subjective opinions: For example, the specification states: *within the SCN (strategic capability network) framework we expect to integrate the beliefs, expert opinions, and measurable data in a way that aids the formulation and analysis of a firm's strategy* (see 6,249,768, C21, L 67 – C22, L 2);
 - b. Network structure development apparently depends on mental processes and subjective opinions: *First layer nodes are resources, second layer nodes are capabilities, "from a given core capability, the modeler needs to identify the capabilities directly supported by it. Support may be either positive (enhancing) or negative (conflicting). Then for each of these capabilities, the same process has to be repeated. As discussed above, a capability identified in a previous step may need to be split into multiple capabilities when it turns out that there are multiple types of outcomes from that capability... This process continues until the*

tangible firm assets and resources are identified and linked to the capabilities they support (see 6,249,768, C 20, L 53 – C21, L 1);

- c. Network weights are apparently determined on the basis of mental processes and subjective opinions: *Relationships as depicted within this framework are not necessarily completely deterministic or even necessarily observable. They encompass all cause and effect linkages that are observable and all cause and effect linkages that a management team believes to exist* (see 6,249,768, C21 L46 – 51); and
- d. Network learning parameters are apparently determined on the basis of mental processes and subjective opinions: *In some areas, these attributes are objectively observable or measurable. In other cases, we must rely on more subjective individual or collective experience* (see 6,249,768, C9, L 9 – 15).

As a result of these deficiencies, it does not appear that someone of average skill in the relevant arts could replicate and/or use the claimed invention.

- 3) The written description of patent 6,411,936 appears to have a number of deficiencies that were not identified by the Examiners. The apparent deficiencies include:
 - a. The invention includes a value enhancement solution generator that receives data from the field feedback survey generator, the switchboard, the performance processor, the customer asset valuation processor, and the performance metrics engine before generating value enhancement solutions based on these data. However, the mechanism by which value enhancement solutions are developed using the different sources of input data does not appear to be specified.
 - b. The specification mentions a plurality of “planning loop structures”; however, it does not appear to be clear how all the planning loop structures generate a value enhancement solution (some do so by receiving feedback from employees) and it also does not appear to be clear how a selection is made from the different planning loop structures when they recommend different value enhancement solutions.

As a result of these deficiencies, it does not appear that someone of average skill in the relevant arts could replicate and/or use the claimed invention.

- 4) The written description of patent 6,671,673 (hereinafter, Baseman) appears to have a number of deficiencies that were not identified by the Examiners. The apparent deficiencies include:
 - a. The invention discusses making improvements to traditional supply chain management practices by incorporating: value at risk techniques, option valuation analytics, and portfolio management techniques; however, the exact manner in which these techniques are incorporated into supply chain management does not appear to have been explained,
 - b. The application value at risk techniques described in the specification requires a large number of supply chain valuations over an extended period of time in order to calculate the “value at risk”. As is well known to those of average skill in the art, the value of the supply chain is not available from traditional financial management systems and the specification does not identify a source for the required data,
 - c. Portfolio management techniques generally require a valuation in order to identify a portfolio value (presumably in this case the value of the portfolio of suppliers).

As is well known to those of average skill in the art, the value of the supply chain is not available from traditional financial management systems and the specification does not identify a source for the required data,

- d. Option analytics generally require a value model in order to identify a value of portfolio options (presumably in this case the value of options on the portfolio of suppliers). As is well known to those of average skill in the art, the value of the supply chain is not available from traditional financial management systems and the specification does not identify a source for the required model, and
- e. As is well known to those of average skill in the art, portfolio management techniques rely on assumptions about the existence of an efficient market and allow simplified analyses based on the assumption that diversifiable risks (such as supply chain risk) do not need to be considered. It is not clear from the specification if the inventors are stating that the use of portfolio management techniques in supply chain management means that supply chain risk can be ignored. Furthermore, if supply chain risk can be ignored it is not clear why value at risk techniques should be used (even if the problem of the missing supply chain value were solved).

As a result of these deficiencies, it does not appear that someone of average skill in the relevant arts could replicate and/or use the claimed invention. Further evidence of an apparent lack of skill in the relevant arts can be found by noting that Baseman was used as the primary reference in the rejection of Asset Reliance application 09/688,983. Application 09/688,983 has claims for measuring value and a plurality of risks for up to three categories of value by element of value and then developing an optimal risk control program (i.e. risk transfer and operational changes) for the organization. Baseman does not teach or suggest: the measurement of a plurality of organization risks, the measurement of the measurement of risks by category of value, the measurement of risks by element of value, determining the value of categories of value, determining the value of elements of value and/or the development of an optimal risk control program. In fact, Baseman teaches away from the claimed methods by teaching that the need for risk transfer and operational changes can be eliminated by using long term planning to create natural hedges and by teaching Value at Risk which analyzes risk at the portfolio level.

- 5) The written description of patent 6,876,992 appears to have a number of deficiencies that were not identified by the Examiners. The apparent deficiencies include:
 - a. The operation of the invention depends on the development of a risk model. However, the method for creating the risk model does not appear to have been specified,
 - b. The operation of the invention may depend on the development of one or more custom risk control models. However, the method for creating the custom risk control models does not appear to have been specified, and
 - c. The operation of the invention may depend on the use of one or more pre-defined risk control models. However, the method for creating the pre-defined risk control models does not appear to have been specified.

As a result of these deficiencies, it does not appear that someone of average skill in the relevant arts could replicate and/or use the claimed invention.

- 6) The written description of patent 7,333,950 (hereinafter, Shidler) appears to have a number of deficiencies that were not identified by the Examiners. The apparent

deficiencies include:

- a. The method for analyzing market capacity does not appear to be clearly specified apparently because it is proprietary (see Shidler, FIG. 1 and Column 4, lines 12 through 25),
- b. The method for using templates to create credit risk transfer products for markets with capacity does not appear to be clearly specified apparently because it is proprietary (see Shidler, FIG. 1 and Column 4, lines 20 through 35),
- c. The algorithms that are used to complete the analysis of a plurality of price/demand curves do not appear to be specified, and
- d. The analyses of a plurality of price/demand curves that are completed by unknown algorithms (from c. above) and used to set prices do not appear to be clearly specified apparently because they are proprietary (see Shidler, FIG. 1 and Column 4, lines 50 through 55).

As a result of these deficiencies, it does not appear that someone of average skill in the relevant arts could replicate and/or use the claimed invention.

The list contained in this attachment is not a complete listing as there appears to be a large number of patents not disclosed herein for which there is a substantial new question of patentability for the reasons detailed above – an apparent failure to properly consider well known prior art during patent prosecution and/or an apparent failure to provide a specification that someone of average skill in the relevant arts could use replicate and/or use the claimed invention.

Introduction

EXAMINER PROFILE

SIEGFRIED E CHENCINSKI

Art Unit 3695

Report Date: 2010-08-13

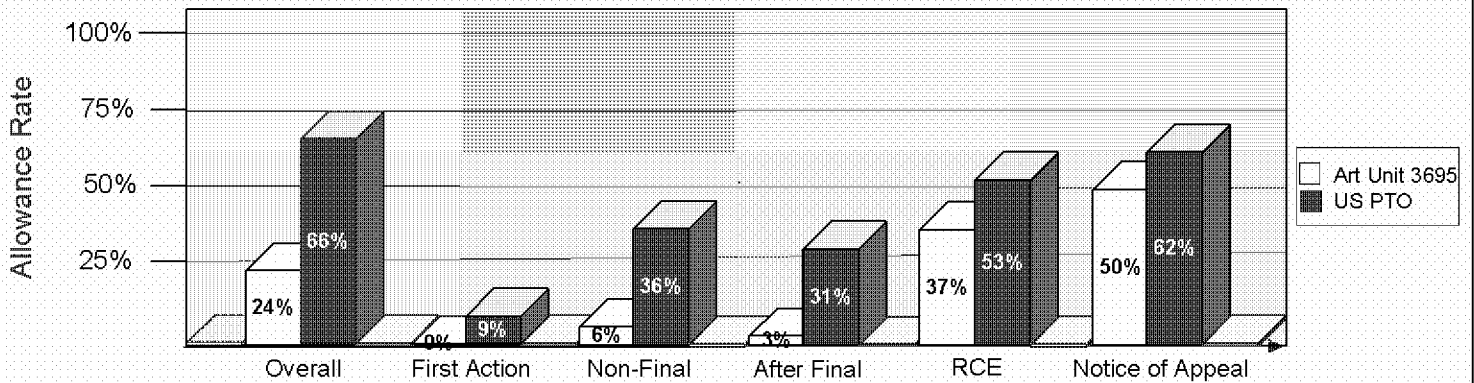
This copyrighted report is based on statistics compiled by PTO Stats™ from over 1.5 million published applications since 2001. It provides a prosecution history as well projections based on the average allowance rates and pendency of the examiner assigned to this application. The report includes the following sections:

- Introduction
- Analysis of Art Unit 3695
 - Allowance Rate
 - Average Pendency
- Analysis of Examiner SIEGFRIED E CHENCINSKI
 - Allowance Rate
 - Average Pendency
 - Allowance Distribution

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Art Unit 3695

Allowance Rate



Art Unit 3695 vs. US PTO

Art Unit 3695 allowed 92 of the 374 applications (24%) it disposed, which is 42% lower than the PTO's allowance rate (66%). Art Unit 3695's allowance rate ranks 477 out of 548 art units in the PTO.

Most Notable

Response to Non-Final Rejection: The most notable variance between Art Unit 3695 and the PTO is for its lower allowance rate following Response to Non-Final Rejections. Art Unit 3695 allowed 40 out of 588 applications (6%) following a Response to Non-Final Rejection, which is 30% lower than the PTO's 36% Response to Non-Final Rejection allowance rate.

Higher Allowance Rate

Art unit 3695 had no allowance rate higher than the PTO's.

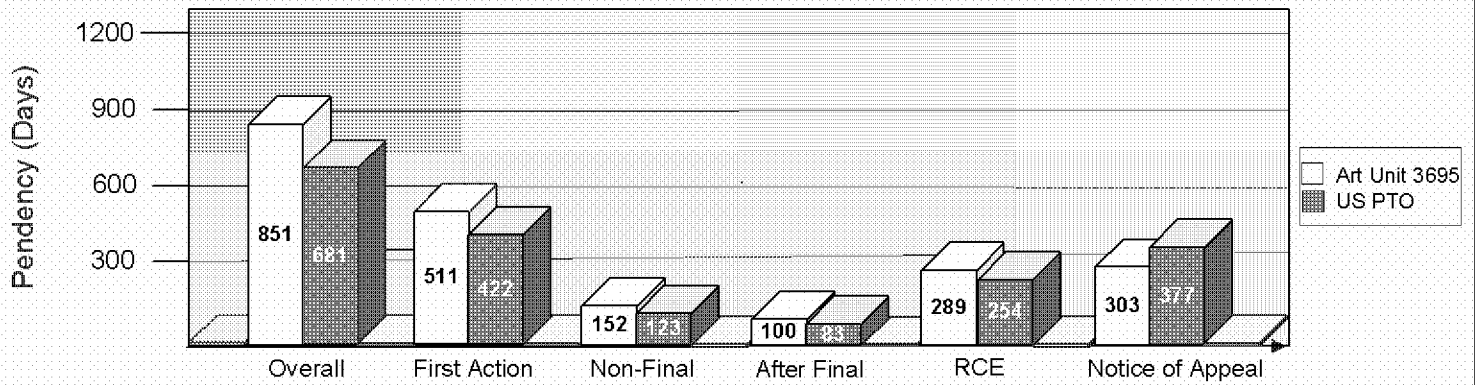
Lower Allowance Rate

Amendment After Final Rejection: Art Unit 3695 allowed 4 out of 128 applications (3%) following an Amendment After Final Rejection, which is 28% lower than the PTO's 31% Amendment After Final Rejection allowance rate. RCE: It also allowed 37 out of 99 applications (37%) following an RCE, which is 16% lower than the PTO's 53% RCE allowance rate. Notice of Appeal: It also allowed 4 out of 8 applications (50%) following a Notice of Appeal, which is 12% lower than the PTO's 62% Notice of Appeal allowance rate. First Action: It also allowed 7 out of 1045 applications (0%) following a First Action, which is 9% lower than the PTO's 9% First Action allowance rate.

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Art Unit 3695
Average Pendency



Art Unit 3695 vs. US PTO

Art Unit 3695's average pendency from the date an application was assigned to the art unit until it was disposed is 851 days, which is 170 days longer than the PTO's average pendency of 681 days.

Longer Pendency

RCE: Art Unit 3695's average pendency for RCE, 289 days, is 35 days longer than the PTO's pendency of 254 days. Response to Non-Final Rejection: Its average pendency for Response to Non-Final Rejection, 152 days, is 29 days longer than the PTO's pendency of 123 days. Amendment After Final Rejection: Its average pendency for Amendment After Final Rejection, 100 days, is 17 days longer than the PTO's pendency of 83 days.

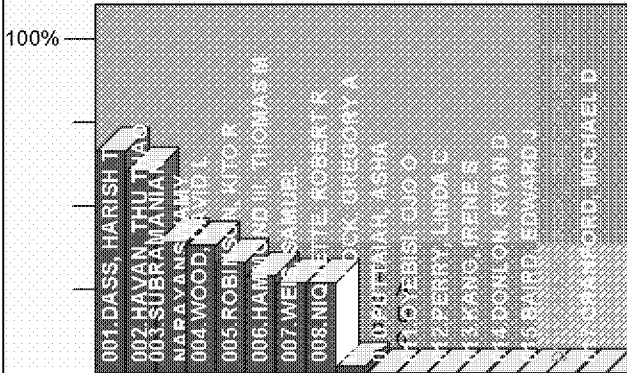
Shorter Pendency

Notice of Appeal: Art Unit 3695's average pendency for Notice of Appeal, 303 days, is 74 days shorter than the PTO's pendency of 377 days.

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Allowance Rates for Art Unit 3695 Examiners

Examiner CHENCINSKI's allowance rate, 0%, ranks him 17 out of 17 past and current examiners in art unit 3695, and his average pendency, 1101 days, ranks 1.

Examiner CHENCINSKI's history has been broken down based on the type of action being examined. Examiner CHENCINSKI's ranking for allowance rate/pendency for each type of action (out of 17 examiners) is:

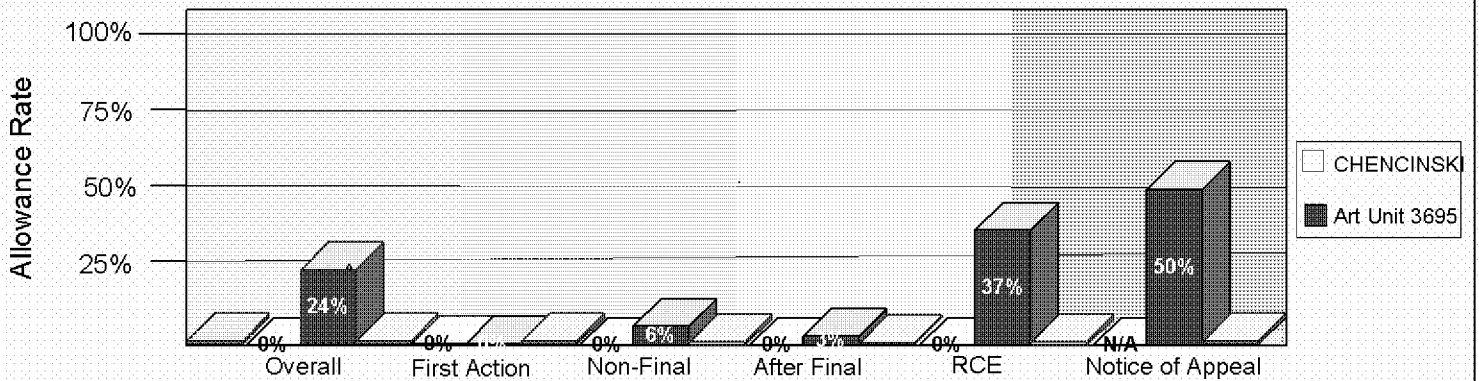
| Action Type | # Cases | Allowance Rate | Rank | Pendency (days) | Rank |
|---------------------------------|-----------|----------------|-----------|-----------------|----------|
| Overall | 11 | 0% | 17 | 1,101 | 1 |
| First Action | 43 | 0% | 17 | 557 | 8 |
| Response to Non-Final Rejection | 19 | 0% | 17 | 152 | 7 |
| Amendment After Final Rejection | 1 | 0% | 17 | 66 | 11 |
| RCE | 4 | 0% | 17 | 336 | 5 |
| Notice of Appeal | 0 | N/A | N/A | N/A | N/A |

In the following sections, Examiner CHENCINSKI's allowance rate and average pendency will be compared to art unit 3695.

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Examiner SIEGFRIED E CHENCINSKI

Examiner SIEGFRIED E CHENCINSKI Allowance Rate



Examiner CHENCINSKI vs. Art Unit 3695

Examiner CHENCINSKI allowed 0 of the 11 applications (0%) he disposed, which is 24% lower than art unit 3695's allowance rate (24%).

Higher Allowance Rate

Examiner CHENCINSKI had no allowance rate higher than his art unit's.

Lower Allowance Rate

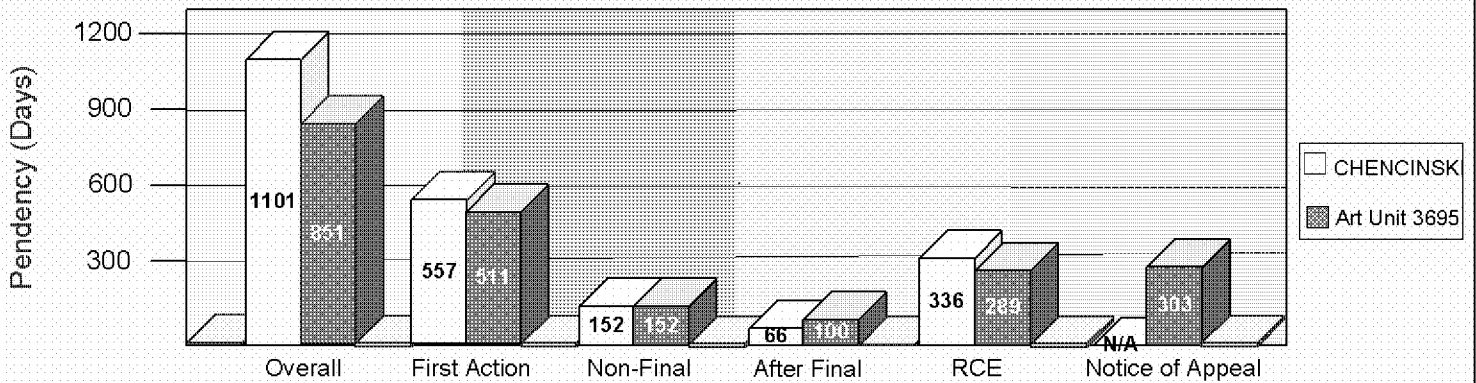
RCE: Examiner CHENCINSKI allowed 0 out of 4 applications (0%) following an RCE, which is 37% lower than his art unit's 37% RCE allowance rate. Response to Non-Final Rejection: He also allowed 0 out of 19 applications (0%) following a Response to Non-Final Rejection, which is 6% lower than his art unit's 6% Response to Non-Final Rejection allowance rate. Amendment After Final Rejection: He also allowed 0 out of 1 applications (0%) following an Amendment After Final Rejection, which is 3% lower than his art unit's 3% Amendment After Final Rejection allowance rate.

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Examiner SIEGFRIED E CHENCINSKI

Examiner SIEGFRIED E CHENCINSKI

Average Pendency



Examiner CHENCINSKI vs. Art Unit 3695

Examiner CHENCINSKI's average pendency from the date an application was assigned to him until it was disposed is 1101 days, which is 250 days longer than his art unit's average pendency of 851 days.

Longer Pendency

RCE: Examiner CHENCINSKI's average pendency for RCE, 336 days, is 47 days longer than his art unit's pendency of 289 days. First Action: His average pendency for First Action, 557 days, is 46 days longer than his art unit's pendency of 511 days.

Shorter Pendency

Amendment After Final Rejection: Examiner CHENCINSKI's average pendency for Amendment After Final Rejection, 66 days, is 34 days shorter than his art unit's pendency of 100 days.

Attachment D

Specific examples related to an apparent failure to follow the relevant statutes and precedents, include:

1. Evidence that patent application "examinations" are routinely completed without giving consideration to material incorporated by reference in accordance with 37 CFR 1.57 can be found by examining the prosecution history of applications 09/688,983, 09/940,450 and 11/167,685;
2. Evidence that the Office appears to violate the several statutes by allowing Examiner's with an apparently well documented lack of average or ordinary skill in the relevant arts to: author and/or sign patent application rejections for written description under 35 U.S.C. 112, interpret claims and author and/or sign patent application rejections for nonstatutory subject matter under 35 U.S.C. 101 based on said interpretations, author and/or sign patent application rejections for anticipation under 35 U.S.C. 102 and obviousness under 35 U.S.C. 103 and approve patents for allowance and issue can be found by reviewing the examples listed in Attachment A and Attachment B;
3. Evidence that Asset Reliance patent applications are being rejected under 35 U.S.C. 101 for non-statutory subject matter when patents for inventions with claims for similar subject matter are being issued to various other companies includes:
 - a. Claims for identifying prices that optimize profits were allowed by the same Examiner (for example, in patent 7,092,918) who rejected the claims in Asset Reliance application 10/645,099 for identifying price premiums that optimize organization value as being non-statutory subject matter. A comparison of representative claims is shown below:
 - a1) A claim from 7,092,918: An apparatus for determining optimum prices of products for sale, comprising: a scenario/results processor, configured to enable a user to prescribe an optimization scenario, and configured to present the optimum prices to said user, wherein the optimum prices are determined by execution of said optimization scenario, wherein said scenario/results processor comprises: an input/output processor, configured to acquire data corresponding to said optimization scenario from said user, and configured to distribute optimization results to said user, said input/output processor comprising: a template controller, configured to provide first price optimization templates and second price optimization templates, wherein said price optimization templates are presented to said user to allow for prescription of said optimization scenario, and for distribution of said optimization results, wherein said first price optimization templates comprise: a plurality of new scenario templates, configured to enable said user to prescribe scenario parameters corresponding to said optimization scenario, said plurality of new scenario templates comprising: a category template, for specifying a product category for price optimization, said product category comprising: a plurality of demand groups, each of said plurality of demand groups configured to categorize a set of highly correlated products, wherein said highly correlated products are normally substitute products, but may also be complementary products; and a command interpreter; configured to extract commands from said first price optimization templates executed by said user, and configured to

populate said second price optimization templates according to result data provided for presentation to said user; and a scenario controller, coupled to said input/output processor, configured to control the acquisition of said data and the distribution of said optimization results in accordance with a price optimization procedure; a demand engine, coupled to said scenario/results processor, configured to model relationships between potential prices of the products and market demand for the products; an activity based cost engine, coupled to said demand engine, configured to estimate demand chain costs for the products based upon said market demand; and a price optimization engine, coupled to said demand engine and said activity based cost engine, configured to employ said market demand and said demand chain costs to determine the optimum prices, wherein the optimum prices are a subset of said potential prices, and wherein the optimum prices maximize a merchandising performance figure of merit according to said optimization scenario.

a2) A claim from 10/645,099: A finance method, comprising:
using a computer to complete the steps of:

obtaining data representative of an organization from a plurality of organization system databases in a format suitable for processing where the organization physically exists and has one or more enterprises; and transforming at least a portion of the data into two or more models that identify and output a tangible net contribution of one or more elements of value to an organization value by a category of value, and one or more lists of changes that will optimize one or more aspects of an organization financial performance, and
using the model to analyze the data and output said tangible net contributions

where the categories of value are a current operation and a category of value selected from the group consisting of real options, market sentiment and combinations thereof, and

where the one or more lists of changes that will optimize the one or more aspects of organization financial performance comprise one or more lists of a change to one or more price premiums.

Examiner for both applications: Susan Meinecke Diaz

- b. Claims for identifying an optimal risk mitigation program were allowed in a patent application filed by a large company in November 2009 (patent 7,624,054) while claims for identifying an optimal risk transfer program in Asset Reliance patent applications 11/142,785 and 12/185,093 were rejected for being nonstatutory subject matter before and after the allowance of the large company patent application. Risk transfer is a subset of risk mitigation. A comparison of representative claims is shown below:

b1) A claim from 7,624,054: A computer-implemented method for mitigating financial risk, comprising: receiving, by at least one processor, data indicative of exposures, data indicative of financial risk mitigations, and data indicative of relationships between financial risk mitigation and exposures, the received relationship data including a one-to-many relationship between a financial risk mitigation and an exposure;

constructing, by the at least one processor, a generalized network model, by applying one or more financial risk mitigations to one or more exposures wherein the step of constructing comprises: calculating an exposure value associated with each of the exposures and a mitigation value associated with each of the financial risk mitigations, determining whether there is a one-to-many relationship between one or more of the exposures and one or more of the financial risk mitigations based upon the relationship data received, when a one-to-many relationship is determined, calculating an exposure riskiness measure associated with each of the one or more exposures having a one-to-many relationship and a mitigation riskiness measure associated with each of the one or more financial risk mitigations having a one-to-many relationship, comparing each of the exposure values and exposure riskiness measures associated with the exposures to each of the mitigation values and mitigation riskiness measures associated with the financial risk mitigations, and determining, as an output of the generalized network model, what portion of each of the exposures can be offset by each of the financial risk mitigations based upon the comparison; producing, by the at least one processor, one or more allocations of the mitigations to the exposures by applying, a first linear programming algorithm to the output of the generalized network model; and performing, by the at least one processor, an analysis of each of the mitigation values, by applying a financial risk mitigation optimization model to the one or more allocations of the mitigations to the exposures and determining which of the one or more allocations of the mitigations to the exposures is an optimal solution.

b2) Two claims for 11/142,785: A computer implemented risk method, comprising:

preparing data representative of an organization that physically exists from a plurality of management systems for use in processing, quantifying a plurality of risks for the organization as a whole and for one or more segments of value for the organization where the segments of value are derivatives, market sentiment, and real options using at least a portion of said data, and

using at least one of the quantified risks to develop and output a customized risk transfer program for the organization

where the customized risk transfer program comprises one or more securitized risk contracts, one or more hybrid securities or a combination thereof.

The method of claim 1 that further comprises identifying an optimal set of risk transfer transactions for an organization using said quantifications where the an optimal set of transactions is the set of risk transfer transactions that minimizes risk for a given level of value.

- c. Multi criteria financial optimization was rejected as being nonstatutory subject matter in an Asset Reliance application 09/688,983 with a filing date in 2000 while it was allowed by the same Examiner in an application with a filing date in 2002 (now patent 7,395,235). A comparison of representative claims is shown below:

c1) A claim from 7,395,235: A method for strategy independent optimization of a multi-objective function of a portfolio containing at least

one investment comprising the steps of:
 determining and if required setting the execution mode;
 selecting a strategy defined by a set of rules from a set of strategies containing at least one strategy;
 identifying a portfolio of investments, consisting of at least one investment, whose multi-objective function has to be optimized;
 identifying a set containing a plurality of time series in relation to investment including at least one time series;
 defining an environment including a time frame in which the multi-objective function has to be optimized, a discrete time interval and mode in accordance with standard time;
 determining a set of parameters of the selected strategy amenable for optimizing;
 creating a genetic algorithm model which includes its convergence;
 creating a sequence of specifications for the determined set of parameters of the selected strategy in the context of the said environment for the said genetic algorithm model for the said portfolio of investments for the said set of time series;
 storing the created sequence of specifications in the memory of a first set of processing units containing at least one processing unit;
 collating raw data relating to the said portfolio of investments, the set of time series, and the information about the said environment;
 polarizing the collated data if required by eliminating noise and storing the polarized data in the memory of a second set of processing units containing at least one processing unit;
 fetching the polarized data from its stored location and transposing it for the purpose of iteration using the said strategy in the said environment;
 processing the polarized data in accordance with the rules of the said strategy for its sets of determined parameters for the said set of time series for the said time frame for the said discrete time interval for the said portfolio of investments in the said environment to generate a sequence of results;
 storing the said sequence of results in the memory of a third set of processing units containing at least one processing unit; generating a set containing a plurality of said sequence of results obtained by varying the sets of determined parameters for the said strategy for the said set of time series for the said time frame for the said discrete time interval for the said portfolio of investments in the said environment;
 storing, in the memory of a fourth set of processing units containing at least one processing unit the said set containing a plurality of said sequence of results;
 applying the said genetic algorithm model to the created and stored set containing the plurality of said sequences of results to create at least one intermediate generation of optimized multi-objective function of the said portfolio of investments;
 determining whether a selected characteristic of the intermediate generation is not satisfied in relation to the said convergence criteria and there after creating a new set of determined parameters; and
 repeating the steps of the method commencing from generating a set containing a plurality of said sequence of results obtained by utilizing the new set of determined parameters and ending with applying the genetic

algorithm model to obtain a new generation of optimized multi-objective function of the said portfolio of investments until the convergence criteria is satisfied to obtain a fully optimized multi-objective function of the said portfolio of investments;

wherein the step of polarizing includes a step of noise elimination cooperating with a step of collating which includes steps of filtering spurious records, renaming, organizing, adjusting time based volume and prices of the elements of extracted data, and generating Open-High-Low-Close-Volume bars corresponding to the set of discrete time intervals to obtain polarized data; and further including

a step of transposing polarized data, including a step of processing cooperating with a step of storing instructions for processing in accordance with the strategies.

c2) A claim for 09/688,983: A computer readable medium having sequences of instructions stored therein, which when executed cause the processor in a computer to perform a risk management optimization method, comprising:

preparing data from a plurality of enterprise transaction systems for use in processing;

measuring a plurality of risks using at least a portion of said data;

identifying one or more risk management activities based upon said risks;

calculating an amount of capital available for said risk management activities using at least a portion of said data; and

determining a combination of risk management activities that optimizes aspects of enterprise financial performance selected from the group consisting of market value, risk and combinations thereof within a constraint of the available capital.

Examiner for both applications: Harish T. Dass

- d. Transforming data into a predictive model was rejected as being non-statutory subject matter when claimed by Asset Reliance in application 10/743,417 and it was found to be statutory subject matter when IBM and American Express, large, well known companies, filed patent applications for similar inventions (now IBM patent 7,283,982 and 7,720,782). A comparison of representative claims is shown below:

d1) A claim from 7,283,982: A predictive model method, comprising:

receiving first input data into an initial model to develop an initial model output;

receiving second input data and said initial model output as inputs into a first boosting stage to develop an improvement to said initial model output, said second input data comprising one of said first input data, data not included in said first input data, and a combination thereof; and outputting a model output resulting from a final boosting stage being one of:

said first boosting stage; and

a final one of boosting stages successively receiving model output data from a preceding boosting stage.

d2) A claim for 10/743,417: A predictive model method, comprising:
using a computer to complete the steps of:
receiving first input data into a plurality of different types of initial predictive models to develop an initial model configuration by for each type of model and then selecting an input data set from the plurality of predictive models using a stepwise regression algorithm after a training of each predictive model type is completed;
receiving the input data set and a second input data as inputs into a second, induction model stage to transform said input data into an improvement to said initial model configuration as an output, said second input data comprising one of said first input data, data not included in said first input data, and a combination thereof; and
receiving said second model stage output as an input into a third predictive model stage to develop and output a final predictive model where all the input data represents a physical object or substance, and where said final predictive model supports a regression analysis.

- e. Using a computer to analyze the vendor mix and calculate variables that will be useful in managing purchasing (aka procurement) risk was rejected as being non-statutory subject matter in Asset Reliance patent application 09/761,670. It was found to be statutory subject matter when HP, a large, well known company, submitted a patent application (now patent 7,747,339) for a similar invention. A comparison of representative claims is shown below:

e1) A claim from patent 7,747,339: A procurement risk management method implemented by a computer including a processor, comprising:
using the processor to compute a resource sourcing mix from a sourcing portfolio of one or more forward contracts, spot market purchases, and inventory depletion for each period of a planning horizon based on forecast scenarios for resource demand, resource price, and resource availability and a specified inventory carrying policy for the resource; and
based upon the computed resource sourcing mix, using the processor to compute one or more metrics for evaluating the sourcing portfolio.

e2) Two claims for 09/761,670: A purchasing risk management method implemented by a computer including a processor, comprising:
using the processor to:
compute a vendor mix from prior purchases, future commitments, and a forecast inventory depletion for each period of a forecast planning period based on one or more scenarios for an item demand, an item price, an item availability and a specified service level for each of a plurality of items; and
compute one or more variables for each item based upon the computed vendor mix.

The purchasing risk management method, wherein the one or more variables comprise one or more metrics.

- f. Claims for an invention that identifies keyword relevance factors for an enterprise was rejected as being nonstatutory subject matter in Asset Reliance patent application 10/750,792. It was found to be statutory subject matter when

HP, a large, well known company, submitted a patent application (now patent 7,840,569) for a similar invention. A comparison of representative claims is shown below:

f1) A claim from 7,840,569: A computer-implemented method of determining a relevancy rank ordering score for a plurality of documents comprising:

(a) identifying, by at least one processing unit, a finite set of candidate documents;

(b) for each of the candidate documents: (i) obtaining raw data for a plurality of ranking features associated with the candidate document, the plurality of ranking features comprising at least two of: BM25, click distance, URL depth, file type, and language of the candidate document; (ii) transforming the raw data for the plurality of ranking features; (iii) normalizing the transformed raw data for the plurality of ranking features; (iv) using a neural network to calculate a relevancy score from the transformed, normalized raw data for the plurality of ranking features, wherein calculating the relevancy score further comprises: calculating hidden node scores at a plurality of hidden nodes from the transformed, normalized raw data, wherein the transformed, normalized raw data for each of the ranking features is provided to each of the plurality of hidden nodes; and calculating the relevancy score based on the hidden node scores;

(c) ranking the candidate documents according to the relevancy score for each of the candidate documents; and

(d) displaying a list of the ranked documents.

f2) A claim from 10/750,792: A method for determining the relevance of a keyword, comprising:

using a computer to complete the steps of:

preparing a plurality of data from a plurality of organization related systems, a user input and an Internet for processing,

obtaining one or more keywords and a set of classification rules for each keyword from a user,

searching for one or more keyword matches on the Internet,

storing one or more locations for each keyword match found during the search of the Internet,

counting and classifying said matches from each stored location for each keyword,

creating one or more keyword performance indicators using said counts for each keyword and a summary of said performance indicators for each keyword,

developing a model of an organization financial performance by a category of value from the prepared data that utilizes the summaries for each keyword as an input, and

quantifying and outputting a contribution of each of the one or more keywords to the organization financial performance by the categories of value using said model of organization financial performance

where keyword performance indicators are linked together when they are not independent, and where the categories of value are selected

from the group consisting of current operation, real options and market sentiment.

Many more examples can be provided.

4. Evidence that patent applications are routinely rejected on the basis of conclusory statements and irrelevant prior art in place of the required substantial evidence (see APA) can be found by examining the prosecution history of any Asset Reliance application that is currently rejected;
5. Evidence that patent applications are routinely rejected for alleged written description deficiencies on the basis of conclusory statements in place of the required preponderance of evidence can be found by examining the prosecution history of applications 09/761,670, 09/688,983, 10/743,417, 11/167,685 and 12/185,093 (see Attachment A, Section B, numbers 2 through 5 for details) and any other Asset Reliance patent application that includes a 112 first paragraph rejection;
6. Evidence that published Asset Reliance patent applications are routinely ignored during prosecution of applications from large, well known companies can be found by comparing:
 - a. Patent 6,947,947 for using xml in data management with published patent application 2004/0088239 that discloses a very similar method for using xml in data management;
 - b. Patent 7,283,982 for predictive modeling with published patent application 2004/0088239 that discloses a very similar method for predictive modeling;
 - c. Patent 7,840,569 for determining keyword relevance with published patent application 2004/0088239 that discloses a similar method for determining keyword relevance;
 - d. Patent 7,072,848 for promotional pricing with published patent application 2004/0193503 that discloses a similar method for promotional pricing;
 - e. Patent 7,617,165 for context modeling with published patent application 2006/0059028 that discloses an earlier filed invention for context modeling;
 - f. Patent 7,720,809 for using xml in data management with published patent application 2005/0119900 that discloses a very similar method for using xml in data management;
 - g. Patent 7,822,762 for entity search models with published patent application 2006/0059028 that discloses entity models that can be used to support search;
 - h. Patent 7,778,856 for using simulation by operating unit in operational risk assessment with published patent application 2004/0215551 for using simulation by enterprise to assess risk. Also of note is the fact that patent 6,876,992 for developing risk models and published patent application 2005/0065754 (now patent 7,409,357) for using Value at Risk in operational risk assessment were not cited either. In the instant application the U.S.P.T.O. has cited Value at Risk as the basis for rejecting the pending claims for using simulation by enterprise to assess risk; and
 - i. Patent 7,769,684 for determining the impact of project related risks on a project's cash flow with published patent application 2005/0119959 for determining the impact of a project on the sponsoring organization's risk, cash flow, real options and other segments of value. If a project is completed by the sponsoring organization than the impact of project related risks on the project's

cash flow would equal the impact of said risks on the organization cash flow.

7. Evidence that restriction requirements are being unilaterally imposed at the time of final rejection can be found by examining the prosecution history of application 10/287,586, application 11/167,685 and application 11/360,087;
8. Evidence that Examiners have rescinded months old Office Actions in an attempt to force ARI to re-open prosecution (in one case with the help of the BPAI) when it was clear that there was no way to win the appeal that ARI had filed can be found by examining the prosecution history of applications 10/287,586 and 10/645,099; and
9. Evidence that the U.S.P.T.O. does not appear to understand and/or follow the relevant statutes, rules and precedents can be found by examining the prosecution history of applications 11/142,785 and 11/167,685. In both cases, the Assignee filed a petition requesting a suspension of prosecution for these two applications for cause (i.e. the apparent lack of the requisite Examiner skill in the relevant arts described previously in Attachments A and B and the apparent failure to follow the relevant statutes and precedents detailed in the instant attachment) and to allow to time to retain counsel and prepare the instant petition. The petitions were not forwarded to the Office of Petitions as requested and the applications were declared abandoned.

The prosecution history of applications 10/012,375 and 10/645,099 are similar. The Assignee filed a petition requesting a suspension of prosecution for these two applications for cause (i.e. the apparent lack of the requisite Examiner skill in the relevant arts described previously in Attachments A and B and the apparent failure to follow the relevant statutes and precedents detailed in the instant attachment) and to allow to time to prepare the instant petition. The petitions were filed along with responses to non-final Office Actions (the one for 10/645,099 was a non-final Office Action that rescinded prior Office Actions, see number 8 of this Attachment) that included changes to the claims that were expected to obviate all claim objections. The petitions were not forwarded to the Office of Petitions as requested and in a clear violation of the rules the applications were declared abandoned without providing the assignee with an opportunity to correct any deficiencies in the responses to the non final rejections.

Application 12/185,093 suffered a similar fate as the petition was not forwarded to the Office of Petitions as requested and the application was declared abandoned.

In short, five (5) petitions presenting clear evidence of apparent shortcomings and making reasonable requests for a delay in prosecution were ignored. As detailed herein, the declaration of abandonment does not appear to be justified in any of the five situations as the applications had not received an "examination". This petition comprises a request to squash the prior failures to properly respond to petitions filed by the Assignee.

10. Further evidence of a lack of basic understanding of the relevant statutes and precedents at the U.S.P.T.O. can be found by examining the prosecution history of application 09/894,951 (now U.S. Patent 7,333,950, hereinafter Shidler). The fundamental basis of all patents allowances is supposed to be an exchange of knowledge regarding novel inventions in exchange for a patent. A review of the Shidler specification shows that the specification does not provide any information regarding allegedly novel methods because the applicant apparently feels they are proprietary (see Shidler, FIG. 1).
11. Detailed examples of rejections that appear to violate the APA by being arbitrary and capricious, include:

- a. The development of optimal promotional offers is currently rejected as being obvious in an Asset Reliance application 11/167,685 with priority to 2000 while it was allowed in an application filed by JP Morgan Chase, a large, well known company with a filing date in 2004 (now patent 7,606,727). A comparison of independent claims is shown below:

a1) A claim from 7,606,727: 1. A computer-implemented method for identifying optimal marketing offers using a computer processor, the method comprising:
collecting and analyzing information associated with a plurality of potential marketing offers;
identifying, with the computer processor, a plurality of marketing offers, from the plurality of potential marketing offers, that are eligible for inclusion in a marketing campaign, based on a plurality of predetermined criteria and the collected information, where the plurality of potential marketing offers are evaluated for eligibility on a household level, a prospect level and an offer level;
calculating a measure of profitability and response rate for each of the identified eligible marketing offers, the measure of response rate for each of the eligible marketing offers comprising a net response rate (NRR) calculated based on an associated time-degradation factor; and
identifying at least one optimal marketing offer from the eligible marketing offers based at least in part on the measure of profitability and response rate for each of the eligible marketing offers.

a2) A claim for 11/167,685: A process system, comprising networked computers each with a processor having circuitry to execute instructions; a storage device available to each processor with sequences of instructions stored therein, which when executed causes the processors to:
prepare data from a plurality of business systems associated with an enterprise for use in processing where said data includes a plurality of data on sales history by an sku,
train one or more models that use said data to identify a set of data from the plurality of data that can be used to analyze each of one or more elements of value, sub-elements of value and external factors that have an impact on a value of the enterprise,
analyze the identified sets of data with one or more models to develop a vector for each element of value, sub-element of value and external factor,
create an enterprise model that quantifies a net impact of each of one or more elements of value, sub-elements of value and external factors on a value of a business by a category of value by using said element of value, sub-element of value and external factor vectors,
analyze the sales history data to identify one or more baskets of sku's typically purchased from the enterprise and one or more associated causal sku's for each basket for each of one or more sub-elements of customer value,
complete an optimization analysis of the enterprise model and said baskets to identify and output a promotional offer for each basket-sub element of customer value combination that optimizes a financial measure, and

optionally present an optimized promotional offer for said sub-element of customer value to a the potential customer using an interactive sales process

where the financial measure comprises a current operation value and a financial measure selected from the group consisting of real option value, market sentiment value and combinations thereof.

- b. The development and use of a context model is currently rejected as being obvious in two Asset Reliance applications, 10/237,021 and 11/262,146 with a priority to 2002 while it was allowed in an application filed by SAP, a large, well known company, with a filing date in 2005 (now patent 7,716,278). A comparison of claims is shown below:

b1) A claim from 7,716,278: A computer-implemented method for implementing a business application comprising: in a computer system having a processor and a memory operatively connected with the processor, the memory including a context repository in which at least two context templates are stored, each of the context templates providing metadata representing a meta-model of a business situation, and an action repository in which at least two action definitions are stored, which action definitions define at least an input or output of a service, instantiating a context based on a context template stored in the context repository of the memory such that the instantiated context is a model of a business situation; associating at least one action definition with the instantiated context; and mapping at least one parameter of the instantiated context with at least one input or output parameter of the associated action definitions and using the mapped parameter as input data to the service or outputting data from the service to the parameter when the business application is running.

b2) A claim from 11/262,146: A management system, comprising: a machine containing one or more central processing units for executing programs; an interface for receiving event messages and connecting with a plurality data sources; and a search engine module executable by the one or more central processing units, the module comprising instructions for performing search steps, comprising: aggregating a plurality of user-related data, external data and Web data from a plurality of data sources; developing a context model for a user that identifies a physical status and a relative importance of one or more elements and one or more external factors to the user by analyzing the aggregated data, analyzing the user's context model as required to identify one or more actions that will optimize a single non-financial performance measure for the user, and presenting a list of the one or more actions to the user via an electronic display.

- c. The development of a layered software architecture for context aware computing is currently rejected in application 10/237,021 the basis of "Official Notice" that was claimed twice even though it was cited only once. No examples were provided that supported its use in either case and there was no response to the

traversal of the Official Notice. The arbitrary and capricious nature of the use of Official Notice can be seen in the fact that twenty five (25) patents with claims for inventions using software layers have been issued since the first rejection based on the unsupported Official Notice assertion that the use of software layers was well known and the fact that seven (7) patents with claims for software layers and architecture have been issued since that time.

d. Many more examples can be provided.

The actions completed in apparent violation of the relevant statutes and precedents appear to be concentrated in Asset Reliance applications with pending claims that appear to be similar to those in patents previously issued to one or more large, well known companies for which there is now a substantial new question of patentability. In some cases, this may be because the Examiners who previously issued these patents are assigned to review the previously filed Asset Reliance applications for similar inventions. For example, three Asset Reliance applications are currently assigned to an Examiner who is apparently responsible for the allowance and issue of several of the patents identified previously for which there is now a substantial new question of patentability. Seven Asset Reliance applications are currently assigned to another Examiner who is apparently responsible the allowance and issue of two patents identified previously for which there is now a substantial new question of patentability.

In other cases, there is no direct link at the Examiner level. For example, the U.S.P.T.O. has issued a number of patents for the use of xml in data management for which there are now substantial new questions of patentability. The Examiner for an Asset Reliance application (11/167,685) for an invention that used xml in data management recently imposed a restriction requirement in a final rejection in apparent violation of 37 CFR 1.142. The improper application of this requirement appeared to be an effort to avoid the examination and/or the appeal of claims related to the use of xml in data management that would have raised substantial new questions regarding the patentability of the issued xml data management patents. The Examiner for the instant Asset Reliance application (11/360,087) imposed a restriction requirement in a final rejection in apparent violation of 37 CFR 1.142 in what appeared to be a similar effort to avoid examination and/or the appeal of claims that would have raised substantial new questions of patentability for an issued patent for risk mitigation optimization.

Summarizing the information provided in this attachment, the apparent failure to follow the relevant statutes and precedents has contributed to the allowance and issue of a number of patents for which there are now substantial new questions regarding patentability and has been the basis for the apparently improper rejection of a number of Asset Reliance patent applications.

More examples of an apparent failure to follow the relevant statutes and precedents during patent prosecution can be provided.

Attachment E

Asset Reliance has limited experience with the Board of Patent Appeals and Interference (hereinafter, BPAI). However, this limited experience has provided evidence that the apparent lack of skill in the relevant arts and the apparent failure to follow the relevant statutes and precedents experienced during initial patent prosecution is also found at the BPAI.

Asset Reliance's first experience with the BPAI came during the appeal of Asset Reliance application 09/761,671. The claims in the application describe a neural network model of current operation financial performance where the elements of value drive the performance of the components of value. The rejection of the claims in the application was based on two documents "How to sort out the premium drivers of post-deal value"; Mergers and Acquisitions; Jul/Aug 1993, Vol. 28, Iss.1; pg. 33, 5 pgs (hereinafter Bielinski) which discussed Value Based Management (hereinafter, VBM) and Brown, Carol E, Coakley, James, Phillips, Mary Ellen; 'Neural Networks Enter the World of Management Accounting'; Management Accounting; Montvale, NJ; May 1995, 5 pages (hereinafter Brown) which disclosed a neural network model that used an analysis of forty factors to forecast stock price changes. Evidence of an apparent lack of average skill in the relevant arts can be found by noting that:

a) Bielinski specifically states that the disclosed VBM method follows the principles of Shareholder Value Analysis (hereinafter, SVA). As is well known to those of average skill in the art, one of the principles of SVA is the efficient market theory. Asset Reliance also cited passages from the book Shareholder Value Analysis by Alfred Rappaport that discussed SVA's reliance on the efficient market theory. In spite of these facts, the BPAI said there was no evidence that Bielinski taught the efficient market theory.

b) Bielinski specifically states that the disclosed VBM method follows the principles of SVA. As is well known to those of average skill in the art, one of the principles of SVA is that there are three (3) determinants of market value. Asset Reliance also cited passages from the book Shareholder Value Analysis by Alfred Rappaport that discussed the fact that SVA taught that there were three (3) determinants of market value. In spite of these facts, the BPAI said there was no evidence that Bielinski taught that there were three (3) determinants of market value.

c) As is well known to those of average skill in the art, one of the principles of VBM is the tree based analysis of cash flow. Bielinski specifically states that the disclosed VBM method follows the principles of SVA. As is well known to those of average skill in the art, one of the principles of SVA is the tree based analysis of cash flow. Asset Reliance also cited passages from the book Shareholder Value Analysis by Alfred Rappaport that illustrated the tree based analysis of cash flow. In spite of these facts, the BPAI said there was no evidence that Bielinski taught the tree based analysis of cash flow.

d) Asset Reliance noted that changing from the tree based structure of VBM to a neural network similar to the one disclosed in the claimed invention would destroy the ability of the VBM methodology to function. The BPAI dismissed this argument by ignoring facts well known to those of average skill in the art and by ignoring two references that indicated that the VBM method relied on tree based analysis. See item c above for details.

e) The BPAI apparently ignored the fact that cited documents failed to make the invention as a whole obvious by teaching away from the claimed methods. Bielinski teaches: efficient market in place of an inefficient market, a tree based analysis in place of a network analysis and three determinants of market value (cash flow, cash flow risk and growth) in place of the

elements of value as determinants of value. Bielinski also teaches that components of value drive the value of elements of value, the exact opposite of the claimed relationship as detailed in Attachment A, section A, item 19. Brown teaches the use of scoring models in place of regression models and that forty (40) external factors determine market value in place of elements of value as determinants of value.

f) The BPAI also ignored arguments that modifying the teachings of the cited documents to replicate the claimed functionality would require changes in the principles of operation for the cited inventions. Bielinski would have to change from a tree to a network and it is well known that substituting a neural network sigmoid in place of the tree node would destroy the ability of the tree to function. Bielinski also specifically prohibits the use of projections while the claimed invention relies on the use of projections to function. In a similar manner, Brown would have to change to using elements of value as determinants of value and use regression in place of scoring.

Asset Reliance responded to the affirmation of the rejection of the claims in application 09/761,671 by filing identical claims in application 10/287,586. The claims were rejected using the same documents and Asset Reliance appealed the rejection. Asset Reliance included an expert opinion that the cited combination would destroy the ability of the VBM method to function, provided additional references noting that VBM relied on a tree based analysis of cash flow and noted that Bielinski teaches that components of value drive the value of elements of value, the exact opposite of the claimed relationship as detailed in Attachment A, item 18 in its appeal brief. The Examiner provided an answer, Asset Reliance filed a reply brief and the application was forwarded to the BPAI.

Instead of reversing the claim rejections, the BPAI remanded the application to the Examiner on the basis of an incorrect statement that Asset Reliance had made claim amendments after a final rejection. A short time later, the Examiner sent an advisory action to Asset Reliance stating that Asset Reliance needed to revise the claims to remove the amendments made after final rejection. Asset Reliance responded with a request to withdraw the advisory action (see Attachment C, item 8) by noting that claim amendments were made after a non-final Office Action (something anyone in the world can see by reviewing the information in Public PAIR). The Examiner responded with another advisory action stating that *since applicant filed a Notice of Appeal the amendment was considered as being filed after a final office action.* Asset Reliance noted that there is no statutory basis for unilaterally changing the designation of an amendment and has again requested that the advisory action be withdrawn.

More examples of an apparent lack of knowledge and understanding of well known prior art and of an apparent failure to follow the relevant statutes and precedents can be provided.

Reservation of rights

The Assignee hereby explicitly reserves the right to present the previously modified and/or canceled claims for re-examination in their original format. The cancellation or modification of pending claims to put the instant application in a final form for allowance and issue is not to be construed as a surrender of subject matters covered by the original claims before their cancellation or modification.

Conclusion

The pending claims are of a form and scope for allowance. Prompt notification thereof is requested.

Respectfully submitted,
Asset Trust, Inc.

/B.J. Bennett/

B.J. Bennett, President

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